

THE
BANKRUPTCY ACT 1869
WITH
THE GENERAL RULES AND ORDERS

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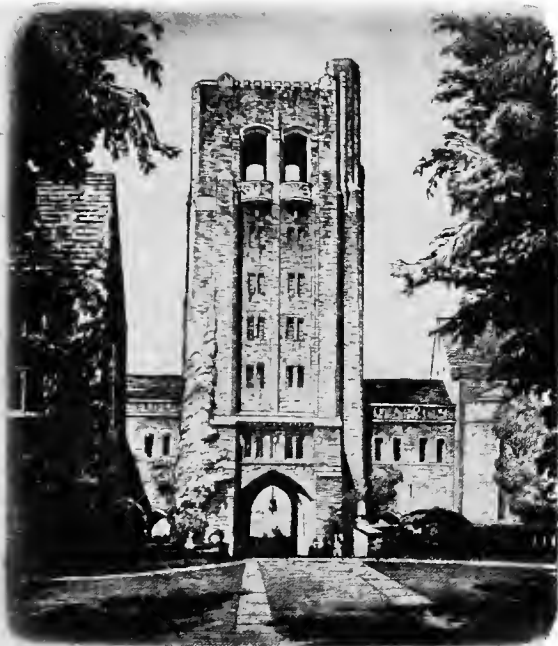
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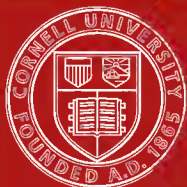


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THE
BANKRUPTCY ACT, 1869 ;
THE DEBTORS ACT, 1869 ;
THE INSOLVENT DEBTORS AND BANKRUPTCY
REPEAL ACT, 1869 ;

TOGETHER WITH
THE GENERAL RULES AND ORDERS
IN BANKRUPTCY,
AT COMMON LAW AND IN THE COUNTY COURTS.

WITH
Notes, References, and a very Copious Index.

BY
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AND
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BARRISTERS AT LAW, AND
REGISTRARS OF THE COURT OF BANKRUPTCY.

B. Ho.

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PREFACE.

THIS Edition has been prepared with a view of assisting the Profession, Creditors, Trustees, and other persons who may be engaged in the administration of the new Bankruptcy system. Most of the notes were necessarily prepared before the General Rules were signed, and it was therefore impracticable to make any reference in the body of the work to those Rules; but it is hoped that the elaborate character of the Index will more than supply this omission.

TABLE OF CONTENTS.

	PAGE
BANKRUPTCY ACT, 1869	1
BANKRUPTCY REPEAL AND INSOLVENT COURT ACT, 1869 .	107
THE DEBTORS ACT, 1869	121
GENERAL RULES AND ORDERS MADE IN PURSUANCE OF THE BANKRUPTCY ACT, 1869	137
LIST OF FORMS	189
SCHEDULE OF FORMS	193
SCALE OF ATTORNEYS' COSTS	280
SEALS OF COURT	288
SCALE OF FEES	288
RULES, ORDERS AND FORMS IN THE COUNTY COURTS . .	293
ORDER EXCLUDING CERTAIN COUNTY COURTS FROM BANK- RUPTCY JURISDICTION	309
REGULÉ GENERALES, MICHAELMAS TERM, 1869, UNDER THE DEBTORS ACT	323
INDEX	329

TABLE OF CASES.

ALLEN v. Bonnett, 77
Alton v. Harrison, 77

BASS, *Ex parte*, in re Motion, 38
Batteley v. Stainsby, 39
Beeston, *Ex parte*, 80
— Isitt v., 77
Bell, *Re*, 80
Bickerstaff, *In re*, *Ex parte* Roche, 7
Biddulph, *In re*, *Ex parte* Norris, 39
Blencowe, *Ex parte*, 6
Bonnett, Allen v., 77
Brett v. Jackson, 31
Broadhouse, *In re* and *Ex parte*, 54
Brooking, *Ex parte*, 39
Byrne, *In re*, 56
— *Ex parte*, *In re* Leighton,
80

CADWALLADER, *Ex parte*, *In re*
James, 39
Caldecott, *Ex parte*, 80
Calder v. Halket, 51
Calthrop, *Ex parte*, 3
Cary v. Dawson, 31
Cazenove, Goldsmid v., 35
Clarke, Hopkins v., 72
Collier, *Ex parte*, 33
Collinge, *Ex parte*, *In re* Holdsworth, 38
Cooper, *Ex parte*, *In re* Duckworth, 36

DARLINGTON Banking Co., *Ex parte*,
Re Riches, 38
Davies, *Re*, *Ex parte* Cleland, 37
Dawson, Cary v., 31
Dean, *Re*, *Ex parte* Smith, 35
Downes, Taaffe v., 51
Drinkwater, *Ex parte* and *In re*, 56

Duckworth, *In re*, *Ex parte* Cooper,
36
Dyke v. Taylor, 23

ELLIS, *Ex parte*, *In re* Henry, 7
Elmes, *Ex parte*, *In re* Hughes,
31

FELDMAN, Marks v., 77

GEE, *Ex parte*, 33
General Estates Co., *In re*, *Ex parte*
Hastie, 21
Goldsmid v. Cazenove, 35
Gouldwell, *In re*, *Ex parte* Squire, 3
Graham, *Ex parte*, *In re* Grant, 38
Grant, *In re*, *Ex parte* Graham, 38
Greenwood, *Ex parte*, *In re* Monk
& Brooks, 56
Grissell, *Ex parte*, 37

HALKET, Calder v., 51
Hanson, Mitcalfe v., 32
Harrison, Alton v., 77
Hastie, *Ex parte*, *In re* General
Estates Co., 21
Hawthorne, *Ex parte*, 6
Heilbut v. Nevill, 77
Henry, *In re*, *Ex parte* Ellis, 7
Hickin, *Ex parte*, 33
Holdsworth, *In re*, *Ex parte* Col-
linge, 38
Holt, *Ex parte*, 6
Homberg, *Ex parte*, 33
Hopkins v. Clarke, 72
Hughes, *In re*, *Ex parte* Elmes, 31

INCH, Parker v., 31
Isitt v. Beeston, 77
Izon, Scott v., 39

JACKSON, Brett *v.*, 31
James, *In re, Ex parte* Cadwallader, 39

LEIGHTON, *In re, Ex parte* Byrne, 80

Levy & Robson, *In re, Ex parte* Topping, 38

MARKS *v.* Feldman, 77

Martin's Patent Anchor Co. *v.* Morton, 23

Maude, Wright *v.*, 80

Mendel, *Ex parte, In re* Moore, 28

Meredith, Trappes *v.*, 66

Mew *v.* Thorne, 3

Miller, *Ex parte* and *In re*, 56

Mitcalfe *v.* Hanson, 32

Monk & Brooks, *In re, Ex parte* Greenwood, 56

Moore, *In re, Ex parte* Mendel, 28

Morris *v.* Duke of Newcastle, 90

Morton, Martin's Patent Anchor Co. *v.*, 23

Motion, *In re, Ex parte* Bass, 38

Mudge *v.* Rowan, 30

Murray, Woodhouse *v.*, 77

NEAL, *Ex parte*, 33

— *In re, Ex parte* Page, 56

Nevill, Heilbut *v.*, 77

Newcastle, Duke of, Morris *v.*, 90

Newton, *In re*, 56

Nicholson, *In re, Ex parte* Robinson, 31

Norris, *Ex parte, In re* Biddulph, 39

North East. Rail. Co., Oxlade *v.*, 31

OWEN, Riches *v.*, 11

Oxlade *v.* North East. Rail. Co., 31

PAGE, *Ex parte, In re* Neal, 56

Parker *v.* Ince, 31

Petrie, *Ex parte, In re* Petrie, 37

Ponsford *v.* Walton, 3

Potts, *In re*, 56

R. *v.* Mary Robinson, 80

— *v.* Scott, 80

Riches *v.* Owen, 11

— *In re, Ex parte* Darlington Banking Co., 38

Robinson, Reg. *v.*, 80

— *Ex parte, In re* Nicholson, 31

Roche, *Ex parte, In re* Bickerstaff, 7

Rowan, Mudge *v.*, 30

Rowlandson, *Ex parte*, 35

SCOTT *v.* Izon, 89

— Reg. *v.*, 80

Scott Russell, *In re*, 6

Smith, *Ex parte, In re* Dean, 35

Squire, *Ex parte, In re* Gouldwell, 3

Stainsby, Batteley *v.*, 39

Stiff, *Ex parte*, 33

TAAFE *v.* Downes, 51

Tasker, *Ex parte, In re* Whitney, 39

Taylor, Dyke *v.*, 23

Thorne, Mew *v.*, 3

Topping, *Ex parte, In re* Levy & Robson, 38

Townsend's Case, 96

Trappes *v.* Meredith, 66

Tucker, Warburg *v.*, 23

VAN HEYTHUYSEN, *Ex parte*, 30

WALTON, Ponsford *v.*, 3

Warburg *v.* Tucker, 23

Wensley, *Ex parte*, 3

Whitney, *In re, Ex parte* Tasker, 39

Woodhouse *v.* Murray, 77

Wright *v.* Maude, 80

Wyld, *Ex parte, In re* Wyld, 38

BANKRUPTCY ACT.

32 & 33 VICT. CHAP. 71.

An Act to Consolidate and amend the law of
Bankruptcy.

[9th August, 1869.]

WHEREAS it is expedient to consolidate and amend
the law relating to Bankruptcy:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

§ 1—3.

1. This Act may be cited as "The Bankruptcy Act, 1869." Short title.

2. This Act shall not, except in so far as is expressly provided, apply to Scotland or Ireland. Application of act.

3. This Act shall not come into operation until the first day of January one thousand eight hundred and seventy, which date is hereinafter referred to as the commencement of this Act. Commencement of act.

- § 4, 5. 4. In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter respectively assigned to them ; that is to say,
- Interpretation of certain terms in the act :
 “ Court :” “ The Court ” shall mean the Court having jurisdiction in bankruptcy as by this Act provided :
- “ Registrar :” “ The registrar ” shall mean the registrar of “ the Court ” as above defined :
- “ Prescribed :” “ Prescribed ” shall mean prescribed by rules of Court, to be made as in this Act provided :
- “ Property :” “ Property ” shall mean and include money, goods, things in action, land, and every description of property, whether real or personal ; also, obligations, easements, and every description of estate, interest, and profit, present or future, vested or contingent, arising out of or incident to property as above defined :
- “ Debt :” “ Debt provable in bankruptcy ” shall include any debt or liability by this Act made provable in bankruptcy :
- “ Person :” “ Person ” shall include a body corporate :
- “ Trader :” “ Trader ” shall, for the purposes of this Act, mean the several persons in that behalf mentioned in the first schedule to this Act annexed.
- Exclusion of companies and large partnerships. 5. A partnership, association, or company corporate, or registered under “ The Companies Act, 1862,” shall not be adjudged bankrupt under this Act.

PART I.

ADJUDICATION AND VESTING OF PROPERTY.

Adjudication.

§ 6.

6. A single creditor, or two or more creditors if the debt due to such single creditor, or the aggregate amount of debts due to such several creditors, from any debtor, amount to a sum of not less than fifty pounds, may present a petition to the Court, praying that the debtor be adjudged a bankrupt and alleging as the ground for such adjudication any one or more of the following acts or defaults, hereinafter deemed to be and included under the expression "acts of bankruptcy:" *

Petition for
adjudica-
tion in
bankruptcy.

- (1.) That the debtor has, in England or elsewhere, made a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors generally:†
- (2.) That the debtor has, in England or elsewhere, made a fraudulent conveyance, gift, delivery, or transfer of his property or of any part thereof :
- (3.) That the debtor has, with intent to defeat or delay his creditors, done any of the following things, namely, departed out of England, or being out of England remained out of England; or being a trader departed from his dwelling-house, or otherwise absented himself; or begun to keep house; or suffered himself to be outlawed:

* In *Ex parte Calthrop*, 37 Law J. (N. S.) Bankr. 13, Lord Cairns held that a corporation (the Agra Bank) may properly be a petitioning creditor.

† To constitute a valid act of bankruptcy the deed making the conveyance or assignment need not be stamped. In *re Gouldwell ex parte Squire*, 38 Law J. (N. S.) Bankr. 13. In *Ponsford v. Walton*, 37 Law J. Rep. (N. S.), C. P. 113, the Court said, "With regard to the stamp it is not necessary that the deed should be stamped when it is used, not for the purpose of showing that it is a good deed, but a bad deed." See also *In re Mew v. Thorne*, 5 Law Times (N. S.), 435, and *Ex parte Wensley*, 1 De Gex, Jones & Smith 273 :—

§ 6.

- (4.) That the debtor has filed in the prescribed manner in the Court a declaration admitting his inability to pay his debts:
- (5.) That execution issued against the debtor on any legal process for the purpose of obtaining payment of not less than fifty pounds has in the case of a trader been levied by seizure and sale of his goods:*
- (6.) That the creditor presenting the petition has served in the prescribed manner on the debtor a debtor's summons requiring the debtor to pay a sum due, of an amount of not less than fifty pounds, and the debtor being a trader has for the space of seven days, or not being a trader has for the space of three weeks, succeeding the service of such summons, neglected to pay such sum, or to secure or compound for the same.†

* The corresponding section of the Act of 1861 (s. 73), provided as follows: "If any execution shall be levied by seizure and sale of any of the goods and chattels of any trader debtor, upon any judgment, recovered in any action personal, for the recovery of any debt or money demand exceeding 50*l.*, every such debtor shall be deemed to have committed an act of bankruptcy, from the date of the seizure of such goods and chattels." The words in the Act of 1869 are, "any legal process for the purpose of obtaining payment of not less than 50*l.*" Will these words include damages for tort, &c.?

Under sect. 73 of the Act of 1861, the Court required evidence to be given of every step taken in the action from the issue of the writ to the judgment, the levying of execution and the sale; and for this purpose the necessary documents were produced and marked as exhibits; and the sheriff's officer and other necessary parties examined. Under par. 5, s. 6, of the new Act, similar evidence as to every step taken "in any legal process for the purpose of obtaining payment of not less than 50*l.*" will no doubt be required to be verified in the same manner.

† This proceeding, like that under the Trader Debtor Summons sections of the Act of 1849, and the Judgment Debtor Summons sections of the Act of 1861, for which it is a substitute, will be the only means by which a creditor can obtain an adjudication, if the debtor has not committed some one or more of the five other acts of bankruptcy mentioned in this section.

But no person shall be adjudged a bankrupt on any of the above grounds unless the act of bankruptcy on which the adjudication is grounded has occurred within six months before the presentation of the petition for adjudication; moreover, the debt of the petitioning creditor must be a liquidated sum due at law or in equity, and must not be a secured debt, unless the petitioner state in his petition that he will be ready to give up such security for the benefit of the creditors in the event of the debtor being adjudicated a bankrupt, or unless the petitioner is willing to give an estimate of the value of his security, in which latter case he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated, but he shall, on an application being made by the trustee within the prescribed time after the date of adjudication, give up his security to such trustee for the benefit of the creditors upon payment of such estimated value.*

§ 6.

Adjudication.

* Moreover, the debt of the petitioning creditor must be a liquidated sum due at law or in equity. These words introduce a very great change in the law of bankruptcy, and it has been remarked by an eminent authority on the subject, Mr. Edward Lawrance, that, "the law as it now stands, and as it has stood since 5th Geo. 2, enables a creditor to petition in respect of a debt not due, provided the debtor has committed an act of bankruptcy; in other words, that the committal of an act of bankruptcy matures every debt." Section 91 of the bankrupt Law Consolidation Act, 1849, contains the following provision which has been repealed: "And every person who has given credit to any trader upon valuable consideration for any sum payable at a certain time, which time shall not have arrived when such trader committed an act of bankruptcy, may so petition or join in petitioning, whether he shall have had any security in writing for such sum or not." Mr. Lawrance adds, "But here divers acts of bankruptcy are enumerated, so that creditors cannot take advantage of any one of them, if the debt is not due." The effect of this alteration was pointed out during the progress of the measure through Parliament, and in the select committee of the Lords an attempt was made to maintain the rules which had previously existed. The committee divided, and there being six in favour of the alteration and five against it, the section was passed in its present form. The majority, it is believed, were influenced

§ 7.

Proceedings
in relation
to a debtor's
summons.

7. A debtor's summons may be granted by the Court on a creditor proving to its satisfaction that a debt sufficient to support a petition in bankruptcy is due to him from the person against whom the summons is sought, and that the creditor has failed to obtain payment of his debt, after using reasonable efforts to do so. The summons shall be in the prescribed form, resembling, as nearly as circumstances admit, a writ issued by one of Her Majesty's superior courts. It shall state that in the event of the debtor failing to pay the sum specified in the summons, or to compound for the same to the satisfaction of the creditor, a petition may be presented against him, praying that he may be adjudged a bankrupt. The summons shall have an endorsement thereon to the like effect, or such other prescribed endorsement as may be best calculated to indicate to the debtor the nature of the document served upon him, and the consequences of inattention to the requisitions therein made.

Any debtor served with a debtor's summons may apply to the Court, in the prescribed manner and within the prescribed time, to dismiss such summons, on the ground that he is not indebted to the creditor serving such summons, or that he is not indebted to

by the notion that it would be unfair to make non-traders bankrupt in respect of a debt not actually due. Another important alteration has been made by the abrogation of the rule which has so long prevailed in bankruptcy, viz., that "the petitioning creditor's debt must be a legal debt and not merely an equitable one." *Ex parte Hawthorne*, Mont. 132; *Ex parte Holt*, 2 Mont. & A. 562; *Ex parte Blencowe*, 35 Law J. Rep. (N.S.) Bankr. 18.

In re Scott Russell, 31 Law J. Rep. (N. S.), Bankr. 37, the Lords Justices observed that: "It is an objectionable, or at least an inconvenient mode of proceeding, and one not deserving of encouragement, to found a petition for adjudication upon a disputed balance of a complicated diversity of cross-demands and unsettled accounts." It is therefore usual to examine the petitioning creditor to ascertain whether he has any set-off or cross demand; and this will be more necessary now that any number of creditors may join in petitioning for adjudication, provided that the aggregate of their several debts amounts to not less than fifty pounds.

such amount as will justify such creditor in presenting a bankruptcy petition against him; and the Court may dismiss the summons, with or without costs, if satisfied with the allegations made by the debtor, or it may, upon such security (if any) being given as the Court may require for payment to the creditor of the debt alleged by him to be due, and the costs of establishing such debt, stay all proceedings on the summons for such time as will be required for the trial of the question relating to such debt: Provided that when the summons shall have issued from the London Court of Bankruptcy, such trial shall be had either before such Court or before any other Court of competent jurisdiction, and when the summons shall have issued from a county court, before such Court in all cases in which it has now jurisdiction, and in all other cases before some competent tribunal.*

§ 8.

8. A petition praying that a debtor may be adjudged a bankrupt, in this Act referred to as a bankruptcy petition, shall be served in the prescribed

Proceedings
on petition.

* This section is introduced practically to supersede the trader debtor summons sections of the Bankrupt Law Consolidation Act, 1849, and the judgment debtor sections of the Bankruptcy Act, 1861. In the interpretation of the trader debtor summons sections, the Court of Appeal in Chancery, sitting in bankruptcy, relaxed many of the merely technical rules which had been followed by the Commissioners. (In *Ex parte Roche in re Bickerstaff*, 37 Law J. Rep. (N. S.) Bankr. 16, the Court of Appeal held "that a creditor's usual signature to particulars of demand is sufficient, notwithstanding the 68th Order in Bankruptcy (1852), which required the particulars of demand and the notice to be signed by or in the christian name and surname of the persons making the demand. In this particular instance the creditor signed only with the initials of his christian names prefixed to his surname. In *Ex parte Ellis re Henry*, 3 Law J., Notes of Cases, 143, the question was this: By the 77th of the rules and orders (1852), under the Bankrupt Law Consolidation Act, 1849, a trader debtor summons should be served between 9 A.M. and 9 P.M. It was served, however, in this instance at 8.45 A.M., and was objected to by the debtor. The Lords Justices on appeal held "that the matter was not one of substance, and that the service was good;" Lord Cairns, in fact, remarking that "the service was only too good."

§ 8. manner.* At the hearing the Court shall require proof of the debt of the petitioning creditor, and of the trading, if necessary, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy, and, if satisfied with such proof, shall adjudge the debtor to be bankrupt.† The

* As the bankruptcy petition must be served upon the debtor, the adjudication will not be, as previously, when a creditor petitioned, made *ex parte*, leaving the debtor to his right of subsequently disputing the adjudication.

† "The Court shall require proof of the debt of the petitioning creditor and of the trading, if necessary, and of the act of bankruptcy."—Sect. 100 of the Bankrupt Law Consolidation Act, 1849, provided that before adjudication the Court may summon before it any person whom such Court shall believe capable of giving any information concerning the trading of or any act of bankruptcy committed by the person against whom any petition or adjudication of bankruptcy had been filed, and may require any person so summoned to produce any books, papers, deeds, &c., in his custody, possession, or power, which may appear to the Court to be necessary to establish such trading or act of bankruptcy; and it shall be lawful for the Court to examine any such person upon oath, by word of mouth, &c., concerning such trading and act of bankruptcy. No corresponding provision has been introduced into the Act of 1869; and it is presumed that when a witness is required to attend to prove the trading or an act of bankruptcy, a writ of subpoena will be issued to compel the attendance of the witness in the same manner as provided by sect. 94 of the Common Law Procedure Act, 15 & 16 Vict. cap. 76, which provides that in certain inquiries directed by the judge, "the attendance of witnesses and the production of documents before the master may be compelled by subpoena in the same manner as before a jury upon a writ of inquiry." The chief judge in bankruptcy, by sect. 65 of the Act of 1869, is invested "with all the powers, jurisdiction, and privileges possessed by any judge of her Majesty's Superior Courts of Common Law at Westminster, or of any judge of her Majesty's High Court of Chancery," and consequently can compel the attendance of a witness by means of a subpoena issuing out of his Court. Sect. 100 of the Bankrupt Law Consolidation Act, 1849, did not specify the penalty to which a person would be subjected for disobeying the summons of the Court. Sect. 120 of the same Act empowers the Court, after adjudication, to grant a summons for the examination of persons suspected of having bankrupt's property, &c., and if the person so summoned does not attend, having no lawful impediment, allowed by the Court, a warrant may be issued for his

Court may adjourn the petition, either conditionally or unconditionally, for the procurement of further evidence, or for any other just cause, or may dismiss the petition, with or without costs, as the Court thinks just. § 9.

9. Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such amount as would justify the petitioner in presenting a bankruptcy petition against him, the Court, upon such security (if any) being given as the Court may require, for payment to the petitioner of any debt which may be established against him in due course of law, and of the costs of establishing such debt, may stay all proceedings on the petition for such time as may be required for trial of the question relating to such debt, and such trial shall be had in manner hereinbefore provided with respect to disputed debts under debtors summonses. Proceedings if debt of petitioning creditor is contested.

Where proceedings are stayed the Court may, if by reason of the delay caused by such stay of proceedings or for any other cause it thinks just, adjudge the debtor a bankrupt on the petition of some

apprehension. If a witness, under sect. 100, refused to attend, and as the statute provided no specific penalty for the offence, no doubt the Court could have enforced its authority by attachment, and a precisely similar result for non-attendance would follow, where a party neglected to attend upon a subpoena to prove trading, or an act of bankruptcy, to produce deeds, documents, &c., which may appear necessary to establish such trading or act of bankruptcy, under sect. 8 of the Bankruptcy Act, 1869. No difficulty with respect to summoning witnesses can arise in the county courts, as those tribunals possess ample power for that purpose. Sect. 85, 9th & 10th Vict. cap. 95, enacts: "that either of the parties to the suit or any other proceeding under this Act, may obtain, at the office of the clerk of the court summonses to witnesses, &c., with or without a clause requiring the production of books, deeds, papers, and writings in their possession or control." The presentation of a petition praying that a debtor may be adjudged bankrupt will constitute a proceeding within the section just cited, and a petitioning creditor, and a proposed bankrupt, before the adjudication has been made absolute, will, it is presumed, be the parties entitled under the section to summon witnesses.

§ 10—12. other creditor, and shall thereupon dismiss, upon such terms as it thinks just, the petition proceedings in which have been stayed as aforesaid.

Advertise-
ment of
order of
adjudica-
tion.

10. A copy of an order of the Court adjudging the debtor to be bankrupt shall be published in the London Gazette, and be advertised locally in such manner (if any) as may be prescribed, and the date of such order shall be the date of the adjudication for the purposes of this Act, and the production of a copy of the Gazette containing such order as aforesaid shall be conclusive evidence in all legal proceedings of the debtor having been duly adjudged a bankrupt, and of the date of the adjudication.

Definition of
commence-
ment of
bankruptcy.

11. The bankruptcy of a debtor shall be deemed to have relation back to and to commence at the time of the act of bankruptcy being completed on which the order is made adjudging him to be bankrupt; or if the bankrupt is proved to have committed more acts of bankruptcy than one, to have relation back to and to commence at the time of the first of the acts of bankruptcy that may be proved to have been committed by the bankrupt within twelve months next preceding the order of adjudication; but the bankruptcy shall not relate to any prior act of bankruptcy, unless it be that at the time of committing such prior act the bankrupt was indebted to some creditor or creditors in a sum or sums sufficient to support a petition in bankruptcy, and unless such debt or debts are still remaining due at the time of the adjudication.

Creditors
bound by
bankruptcy
proceedings.

12. Where a debtor shall be adjudicated a bankrupt, no creditor to whom the bankrupt is indebted in respect of any debt provable in the bankruptcy shall have any remedy against the property or person of the bankrupt in respect of such debt except in manner directed by this Act. But this section shall not affect the power of any creditor holding a security upon the property of the bankrupt to realize or otherwise deal with such security in the same manner as he would have been entitled to realize or deal with the same if this section had not been passed.

13. The Court may, at any time after the presentation of a bankruptcy petition against the debtor, restrain further proceedings in any action, suit, execution, or other legal process against the debtor in respect of any debt provable in bankruptcy, or it may allow such proceedings, whether in progress at the commencement of the bankruptcy or commenced during its continuance, to proceed upon such terms as the Court may think just. The Court may also at any time after the presentation of such petition appoint a receiver or manager of the property or business of the debtor against whom the petition is presented, or of any part thereof, and may direct immediate possession to be taken of such property or business, or any part thereof.*

§ 13, 14.

Power of Court, after presentation of petition, to restrain suits, &c., and appoint receiver.

Appointment of Trustee.

14. When an order has been made adjudging a debtor bankrupt, herein referred to as an order of adjudication, the property of the bankrupt shall become divisible amongst his creditors in proportion to the debts proved by them in the bankruptcy; and for the purpose of effecting such division the Court shall, as soon as may be, summon a general meeting of his creditors, and the creditors assembled at such meeting shall and may do as follows:

Meeting of creditors for appointment of persons to administer bankrupt's property.

(1.) They shall, by resolution appoint some fit person, whether a creditor or not,† to fill the

* The power of appointing a receiver or manager at any time after the presentation of a bankruptcy petition has been adopted from the practice of the Court of Chancery. In the case of *Riches v. Owen*, 3 Law J., Notes of Cases, 147, Lord Justice Giffard, when Vice-Chancellor, said, "that it appeared to him that in general the Court of Chancery had no jurisdiction to administer estates under inspectorship deeds, and that this duty was imposed upon the Court of Bankruptcy exclusively. But he thought the Court of Bankruptcy had no power to appoint a receiver, and he therefore should grant the motion, provided the plaintiffs agreed to submit to any order the Court might make as to transferring the assets received into the control of the Court of Bankruptcy."

† "Whether a creditor or not." It was originally proposed that the trustee should necessarily be a creditor; but it was

§ 14.

- office of trustee of the property of the bankrupt, at such remuneration as they may from time to time determine, if any; or they may resolve to leave his appointment to the committee of inspection hereinafter mentioned:
- (2.) They shall, when they appoint a trustee, by resolution declare what security is to be given, and to whom, by the person so appointed, before he enters on the office of trustee:*
 - (3.) They shall, by resolution, appoint some other fit persons, not exceeding five in number, and being creditors qualified to vote at such first meeting of creditors as is in this Act mentioned, or authorised in the prescribed form

urged in the House of Commons, that such a provision would exclude solicitors and professional accountants—persons usually supposed to be well qualified to undertake the management of bankrupt estates—and the clause was ultimately passed in its present shape. The business of bankruptcy in Scotland is mainly conducted by a trustee, who is a chartered accountant, namely, a person, who, having served under articles in the office of a chartered accountant, and having passed a satisfactory examination in accounts and the principles of commercial law, has himself been admitted a member of the Chartered Society at Edinburgh. The establishment of a similar society in this country is a matter well worthy of consideration. Where a solicitor is appointed by the creditors to the office of trustee, “he may contract to be paid a certain sum by way of per-centage or otherwise, as a remuneration for his services as trustee, including all professional services, and any such contract shall, notwithstanding any law to the contrary, be lawful.” (Sect. 29, Bankruptcy Act, 1869.) This is the first recognition by the legislature of the principle embodied in a bill introduced by Lord Westbury, when Chancellor, to enable an agreement to be made between a solicitor and client for the transaction of particular business for a fixed and settled sum. May not, however, the system of percentages, &c., provoke a kind of competition for trusteeships in which one professional gentleman will canvass the creditors, and by the cheapness of his per-centage endeavour to out-bid all competitors. As to “conduct of trustees” and appeal against trustee, see sect. 20 of the Bankruptcy Act, 1869; and “as to powers of trustees to deal with property,” see sect. 25, Bankruptcy Act, 1869; and as to “regulation as to trustees, &c.,” see sect. 83, Bankruptcy Act, 1869.

* Can the creditors under these words resolve that no security whatever shall be given by the creditors’ trustee? See also sect. 18, Bankruptcy Act, 1869.

hy creditors so qualified to vote, to form a committee of inspection for the purpose of superintending the administration by the trustee of the bankrupt's property: § 15.

- (4.) They may, by resolution, give directions as to the manner in which the property is to be administered by the trustee, and it shall be the duty of the trustee to conform to such directions, unless the Court for some just cause otherwise orders.

15. The property of the bankrupt divisible amongst his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following particulars: Descriptions of bankrupt's property divisible amongst creditors.

- (1.) Property held by the bankrupt on trust for any other person:
- (2.) The tools (if any) of his trade, and the necessary wearing apparel and bedding of himself, his wife and children, to a value, inclusive of tools and apparel and bedding, not exceeding twenty pounds in the whole:

But it shall comprise the following particulars:

- (3.) All such property as may belong to or be vested in the bankrupt at the commencement of the bankruptcy, or may be acquired by or devolve on him during its continuance:
- (4.) The capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or during its continuance, except the right of nomination to a vacant ecclesiastical benefice:
- (5.) All goods and chattels being at the commencement of the bankruptcy, in the possession, order, or disposition of the bankrupt, being a trader, by the consent and permission of the true owner, of which goods and chattels the bankrupt is reputed

s 16.

owner, or of which he has taken upon himself the sale or disposition as owner; provided that things in action, other than debts due to him in the course of his trade or business, shall not be deemed goods and chattels within the meaning of this clause.*

Regulations
as to first
meeting of
creditors.

16. The general meeting of creditors to be summoned as aforesaid by the Court, and in this Act referred to as the first meeting of creditors, shall be held in the prescribed manner and subject to the prescribed regulations as to the quorum, adjournment of meeting, and all other matters relating to the conduct of the meeting or the proceedings thereat.

Provided that,—

- (1.) The meeting shall be presided over by the registrar, or, in the event of his being unable to attend through illness or any unavoidable cause, by such chairman as the meeting may elect:
- (2.) A person shall not be entitled to vote as a creditor unless at or previously to the meeting he has in the prescribed manner proved a debt provable under the bankruptcy to be due to him:

* Section 125 of the Bankrupt Law Consolidation Act, 1849, with regard to order and disposition, enacted as follows: "That if any bankrupt, at the time he becomes bankrupt, shall, by the consent and permission of the true owner thereof, have in his possession, order or disposition, any goods or chattels whereof he was reputed owner, or whereof he had taken upon him the sale, alteration or disposition as owner, the Court shall have power to order the same to be sold and disposed of for the benefit of the creditors under the bankruptcy." It is perhaps to be regretted that these words were not literally reproduced in the new Act, as they have formed the subject of a multitude of decisions which have established principles and rules long recognised as settled law, and the change in the language which has been introduced may lead to another series of decisions not more valuable than those which have been superseded. The Court as heretofore will make the order directing the goods and chattels to be sold as being "in the possession, order or disposition" of the bankrupt; but the trial of the right to the goods, &c., if disputed, may be before the Chief Judge, either with or without a jury. (Section 72 of the Bankruptcy Act, 1869.)

- (3.) A creditor shall not vote at the said meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained: § 16.
- (4.) A secured creditor shall, for the purpose of voting, be deemed to be a creditor only in respect of the balance (if any) due to him after deducting the value of his security; and the amount of such balance shall, until the security be realized be determined in the prescribed manner. He may, however, at or previously to the meeting of creditors, give up the security to the trustee, and thereupon he shall rank as a creditor in respect of the whole sum due to him:
- (5.) A "secured creditor" shall in this Act mean any creditor holding any mortgage, charge, or lien on the bankrupt's estate, or any part thereof, as security for a debt due to him:
- (6.) Votes may be given either personally or by proxy:
- (7.) An ordinary resolution shall be decided by a majority in value of the creditors present personally or by proxy at the meeting and voting on such resolution:
- (8.) A special resolution shall be decided by a majority in number, and three-fourths in value, of the creditors present personally or by proxy at the meeting and voting on such resolution.*

* "The meeting shall be presided over by the registrar." By sect. 17 of the Bankruptcy Act, 1869, it is provided that the registrar, until a trustee is appointed, shall be the trustee for the purposes of this Act. As such trustee the registrar will administer oaths and will decide all questions of proof of debt, for the purpose of ascertaining whether the requirements in par. 2, sect. 16, of the Bankruptcy Act, 1869, have been complied with, viz., that the creditor "has, in the prescribed manner, proved a debt provable under the bankruptcy to be due to him"—as a condition precedent to his voting in the choice of a creditor's trustee. The language of the Act, with respect to the duties of trustee is occasionally ambiguous. By sect. 25, the trustee is empowered to receive and decide upon proof of

§ 17, 18.

Devolution
of property
on trustee.

17. Until a trustee is appointed the registrar shall be the trustee for the purposes of this Act, and immediately upon the order of adjudication being made the property of the bankrupt shall vest in the registrar. On the appointment of a trustee the property shall forthwith pass to and vest in the trustee appointed.

The expression "trustee" when used in this Act, shall include the person for the time being filling the office of trustee, whether he be the registrar or not; but when the registrar holds the office of trustee he shall, unless the Court otherwise orders, in the administration of the property of the bankrupt, apply to the Court for directions as to the mode of administering such property, and shall not take possession thereof unless directed by the Court.

Evidence of
appointment
of
trustee.

18. The appointment of a trustee shall be reported to the Court, and the Court, upon being satisfied that the requisite security has been entered into by him, shall give a certificate declaring him to be trustee of the bankruptcy named in the certificate, and such certificate shall be conclusive evidence of the appointment of the trustee, and such appointment shall date from the date of the certificate. When the registrar holds the office of trustee, or when the trustee is changed, a like certificate of the Court may be made declaring the person therein named to be trustee, and such certificate shall be conclusive evidence of the person therein named being trustee.

debts, and for such purpose to administer oaths. Sect. 17 enacts that "the expression 'trustee,' when used in this Act shall include the person for the time being filling the office of trustee, whether he be the registrar or not." In the former section a trustee elected by the creditors is evidently intended; but, taking both sections together, there can be no doubt that at the first meeting the registrar will have to decide all questions of proof, otherwise this result would seem to follow,—that there would be no person to decide upon the right of the persons to vote in the choice of the creditors' trustee.

PART II.

ADMINISTRATION OF PROPERTY.

General Provisions affecting Administration of Property.

19. The bankrupt shall, to the utmost of his ^{§ 19, 20.} power, aid in the realization of his property, and the distribution of the proceeds amongst his creditors. ^{Conduct of bankrupt.} He shall produce a statement of his affairs to the first meeting of creditors, and shall be publicly examined thereon on a day to be named by the Court, and subject to such adjourned public examination as the Court may direct. He shall give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, attend such meetings of his creditors, wait at such times on the trustee, execute such powers of attorney, conveyances, deeds, and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the trustee, or may be prescribed by rules of Court, or be directed by the Court by any special order or orders made in reference to any particular bankruptcy, or made on the occasion of any special application by the trustee or any creditor.

If the bankrupt wilfully fail to perform the duties imposed on him by this section, or if he fail to deliver up possession to the trustee of any part of his property, which is divisible amongst his creditors under this Act, and which may for the time being be in the possession or under the control of such bankrupt, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of Court, and may be punished accordingly.

20. The trustee shall, in the administration of the property of the bankrupt and in the distribution thereof amongst his creditors, have regard to any ^{Conduct of trustee, and appeal to Court}

§ 21. directions that may be given by resolution of the creditors at any general meeting, or by the committee of inspection, and any directions so given by the creditors at any general meeting shall be deemed to override any directions given by the committee of inspection; the trustee shall call a meeting of the committee of inspection once at least every three months, when they shall audit his accounts, and determine whether any or what dividend is to be paid; he may also call special meetings of the said committee as he thinks necessary.

against
trustee.

Subject to the provisions of this Act, and to such directions as aforesaid, the trustee shall exercise his own discretion in the management of the estate, and its distribution amongst the creditors. The trustee may from time to time summon general meetings of the creditors for the purpose of ascertaining their wishes; he may also apply to the Court, in manner prescribed, for directions in relation to any particular matter arising under the bankruptcy. .

The bankrupt, or any creditor, debtor, or other person aggrieved by any act of the trustee, may apply to the Court, and the Court may confirm, reverse, or modify the act complained of, and make such order in the premises as it thinks just. The Court may from time to time, during the continuance of a bankruptcy, summon general meetings of the creditors for the purpose of ascertaining their wishes, and may, if the Court thinks fit, direct the registrar to preside at such meetings.

The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position in all respects as if he were a receiver of such property appointed by the Court of Chancery, and the Court may, on his application, enforce such acquisition or retention of property accordingly,

Regulations
as to general
meetings of
creditors
subsequent
to first
meeting.

21. The provisions of this Act with respect to the first general meeting of creditors shall apply to any subsequent general meeting of creditors in a bankruptcy, with this exception, that subsequent meet-

ings of creditors may be summoned by the trustee, or by a member of the committee of inspection, and that such meetings may, unless otherwise directed by the Court in the case of meetings summoned by the Court, be presided over by any person chosen by the creditors assembled at such meeting, and that any creditor whose debt has been proved, or the value of whose debt has been ascertained at or subsequently to such first meeting, shall be allowed to be present and to vote thereat.*

§ 22.

Dealings with Bankrupt's Property.

22. Where any portion of the property of the bankrupt consists of stock, shares in ships, shares, or any other property transferable in the books of any company, office, or person, the right to transfer such property shall be absolutely vested in the trustee to the same extent as the bankrupt might have exercised the same if he had not become bankrupt. Where any portion of such estate consists of copyhold or customary property, or any like property passing by surrender and admittance or in any similar manner, the trustee shall not be compellable to be admitted to such property, but may deal with the same in the same manner as if such property had been capable of being and had been duly surrendered or otherwise conveyed to such uses as the trustee may appoint; and any appointee of the

Possession
of property
by trustee.

* Sections 19, 20, and 21 of the Bankruptcy Act, 1869, lay down regulations with respect to the conduct of the bankrupt, the conduct of the trustee, and respecting the summoning of general meetings of creditors subsequent to the first meeting. As the trustee, subject to the control of the committee of inspection and of the Court, is to "exercise his own discretion in the management of the estate, and its distribution amongst the creditors," there can be no doubt that when any questions of a difficult and complicated nature arise, he will protect himself in the first instance by summoning "a general meeting of the creditors for the purpose of ascertaining their wishes." If the resolution come to at the meeting so summoned should not be deemed sufficient or satisfactory by the trustee, then the trustee will "apply to the court for its direction in the particular matter."

§ 23. trustee shall be admitted or otherwise invested with the property accordingly.

Where any portion of the property of the bankrupt consists of things in action, any action, suit, or other proceeding for the recovery of such things instituted by the trustee shall be instituted in his official name, as in this Act provided; and such things shall, for the purpose of such action, suit, or other proceeding, be deemed to be assignable in law, and to have been duly assigned to the trustee in his official capacity.

The trustee shall, as soon as may be, take possession of the deeds, books, and documents of the bankrupt, and all other property capable of manual delivery. The trustee shall keep, in such manner as rules of Court shall direct, proper books, in which he shall from time to time make or cause to be made entries or minutes of proceedings at meetings, and of such other matters as rules of Court shall direct, and any creditor of the bankrupt may, subject to the control of the Court, personally or by his agent inspect such books.*

Disclaimer
as to oner-
ous prop-
erty.

23. When any property of the bankrupt acquired by the trustee under this Act consists of land of any tenure burdened with onerous covenants, of unmarketable shares in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the trustee, notwithstanding he has endeavoured to sell, or has taken possession of such property or exercised any act of ownership in relation thereto, may, by writing under his hand, disclaim such property, and upon the execution of such disclaimer the property disclaimed shall, if the same is a contract, be deemed

* This section simplifies the mode in which the trustee can obtain possession of the bankrupts' property, and deal with it for the purpose of realization. The power given to any creditor "personally or by his agent" to inspect the books, papers, &c., of the bankrupt, and the books directed to be kept by the trustee, must, of course, be limited to creditors who, in the prescribed manner, have proved a debt, or to their duly authorized agents.

to be determined from the date of the order of adjudication, and if the same is a lease be deemed to have been surrendered on the same date, and if the same be shares in any company be deemed to be forfeited from that date, and if any other species of property it shall revert to the person entitled on the determination of the estate or interest of the bankrupt, but if there shall be no person in existence so entitled, then in no case shall any estate or interest therein remain in the bankrupt. Any person interested in any disclaimed property may apply to the Court, and the Court may, upon such application, order possession of the disclaimed property to be delivered up to him, or make such other order as to the possession thereof as may be just.

Any person injured by the operation of this section shall be deemed a creditor of the bankrupt to the extent of such injury, and may accordingly prove the same as a debt under the bankruptcy.*

* The very large powers of disclaimer given by this section are intended to meet many of those cases of onerous contracts and of unsalable and unprofitable property which, especially in reference to shares in joint stock companies, held by a bankrupt have produced so much litigation. The right given by the following section (24) to any person interested in the property to require the trustee within twenty-eight days, after notice in writing, to disclaim or not, will, it is presumed, induce the trustee in all cases of difficulty to ascertain the wishes of the creditors at a general meeting, to be summoned for the purpose, or to act under the direction of the Court. In connection with the general subject of these liabilities, see also the Companies Act, 1862, 25 & 26 Vict. cap. 89, s. 75, which enacts that :—
 “It shall be lawful in the case of the bankruptcy of any contributory to prove against his estate the estimated value of his liability to his future calls, as well as calls already made. Sect. 76 enacts, “If any contributory becomes bankrupt, either before or after he has been placed on the list of contributories, his assignees shall be deemed to represent such bankrupt for all the purposes of the winding-up, and shall be deemed to be contributories accordingly, and may be called upon to admit to proof against the estate of such bankrupt or otherwise to allow to be paid out of his assets in due course of law, any monies due from such bankrupt in respect of his liability to contribute to the assets of the company being wound up.” In the case of *In re the General Estates Company, ex parte Hastie*, 38 Law J. Rep. (N. S.), Chanc. 233, where the assignee of a

§ 24.

Limitation
of time for
disclaimer.

24. The trustee shall not be entitled to disclaim any property in pursuance of this Act in cases where

bankrupt shareholder in a limited company, registered under the act of 1862 has repudiated the bankrupt's shares, and the company is wound up after the discharge of the bankrupt, the Lords Justices held that the bankrupt's name was properly retained on the list of contributories. And also "that, *prima facie*, future calls to be made by a company not in course of winding-up, are not capable of valuation at the date of the bankruptcy, and therefore are not provable under sect. 154 of the Bankruptcy Act, 1861." As to the liabilities of assignees with respect to covenants in leases, see *Dyke v. Taylor*, 2 Giff. 566, and 3 De Gex, F. & J. 467. In that case by a lease a tenant entered into a covenant that "he or a person to be approved by the landlord would reside on the property demised to him, and that he would not assign without licence; and it was provided that in the event of the bankruptcy of the tenant, the landlord should have a right to re-enter and avoid the lease. The tenant having taken possession of the property demised to him, became bankrupt, and the landlord received rent from his assignees, and accepted them as tenants. The Vice-Chancellor was of opinion that the assignees came in by contract upon the terms of the lease, and that they were bound by the stipulations therein; and granted an injunction upon an interlocutory application, restraining the assignees from assigning, underletting, or otherwise disposing of, or parting with, the possession of the demised property without the consent in writing of the landlord. There having been certain dealings between the assignees and one S., for a letting of the farm, which it was contended was a breach of the injunction, a motion was made for the committal of the assignees for contempt, and the Vice-Chancellor, although he made no order on the motion to commit, directed that the assignees should pay the costs of the motion. Held, on appeal, that the evidence of the transactions between the assignees and S. was too doubtful to warrant the Court to order the assignees to pay the costs of the motion to commit, and that as to the injunction against assigning and underletting, it must be dissolved, the inconvenience from maintaining it erroneously being probably greater than that of erroneously dissolving it." These cases are cited to show the risks and responsibilities which creditors' assignees might incur, and as, for the future, creditors' trustees will be in the same position; creditors' assignees, with this exception, that such trustees will have additional powers, and will be exposed to additional risks and penalties, it may be doubted whether the terms of the section will afford adequate protection to disclaiming trustees, or to bankrupts after they have obtained their discharge. In *Martin's Patent Anchor Company v. Morton*, and the *Same v. Hewitt*, it was decided by the Court of Queen's Bench that if a shareholder in a company incorpo-

an application in writing has been made to him by any person interested in such property, requiring such trustee to decide whether he will disclaim or not, and the trustee has for a period of not less than twenty-eight days after the receipt of such application or such further time as may be allowed by the Court declined or neglected to give notice whether he disclaims the same or not. § 25.

25. Subject to the provisions of this Act, the trustee shall have power to do the following things: Power of trustee to deal with property.

- (1.) To receive and decide upon proof of debts in the prescribed manner, and for such purpose to administer oaths:*
- (2.) To carry on the business of the bankrupt so far as may be necessary for the beneficial winding up of the same:
- (3.) To bring or defend any action, suit, or other legal proceeding relating to the property of the bankrupt:
- (4.) To deal with any property to which the bankrupt is beneficially entitled as tenant in tail in the same manner as the bankrupt

rated under the Companies Act, 1862, becomes bankrupt, and obtains his discharge, but still continues to hold his shares, he is liable to pay calls made in respect of such shares subsequently to the adjudication. Sect. 154 of the Bankruptcy Act, 1861, does not apply to such calls. Sect. 75 of the Companies Act, 1862, does not apply to the case of a bankruptcy where the bankrupt is discharged before the commencement of the winding-up of the company, but only to the case of a bankruptcy pending during the winding up. 37 Law J. Rep. (N. S.) Q. B. 98. See further, *Warburg v. Tucker*, 28 Law J. Rep. (N. S.) Q. B. 56.

* As the trustee after his appointment at the first meeting is empowered to administer an oath, persons swearing falsely will be liable to indictment for perjury. In addition, the Act for the Abolition of Imprisonment for Debt, 32 & 33 Vict. c. 62, s. 14, enacts as follows:—"If any creditor in any bankruptcy or liquidation by arrangement or composition with creditors in pursuance of the Bankruptcy Act, 1869, wilfully, and with intent to defraud, make any false claim, or any proof, declaration, or statement of account which is untrue in any material particular, he shall be guilty of a misdemeanor, punishable with imprisonment not exceeding one year, with or without hard labour."

§ 26.

might have dealt with the same; and the sections fifty-six to seventy-three (both inclusive) of the Act of the session of the third and fourth years of the reign of King William the Fourth (chapter seventy-four), "for the abolition of fines and recoveries, and for the substitution of more simple modes of assurance," shall extend and apply to proceedings in bankruptcy under this Act as if those sections were here re-enacted and made applicable in terms to such proceedings:

- (5.) To exercise any powers the capacity to exercise which is vested in him under this Act, and to execute all powers of attorney, deeds, and other instruments expedient or necessary for the purpose of carrying into effect the provisions of this Act:
- (6.) To sell all the property of the bankrupt (including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt) by public auction or private contract, with power, if he thinks fit, to transfer the whole thereof to any person or company, or to sell the same in parcels:
- (7.) To give receipts for any money received by him, which receipt shall effectually discharge the person paying such monies from all responsibility in respect of the application thereof:
- (8.) To prove, rank, claim, and draw a dividend in the matter of the bankruptcy or sequestration of any debtor of the bankrupt.

Power to
allow bank-
rupt to
manage
property.

26. The trustee may appoint the bankrupt himself to superintend the management of the property or of any part thereof, or to carry on the trade of the bankrupt (if any) for the benefit of the creditors, and in any other respect to aid in administering the property in such manner and on such terms as the creditors direct.

27. The trustee may, with the sanction of the committee of inspection, do all or any of the following things: § 27.

(1.) Mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts:

Power of trustee to compromise, &c.

(2.) Refer any dispute to arbitration, compromise all debts, claims, and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any debtor or person who may have incurred any liability to the bankrupt, upon the receipt of such sums, payable at such times, and generally upon such terms as may be agreed upon:

(3.) Make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors in respect of any debts provable under the bankruptcy:

(4.) Make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the trustee by any person or by the trustee on any person:

(5.) To divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot advantageously be realized by sale.*

* This provision is intended to meet the case of property, the immediate sale of which would produce certain loss, but which if retained in its existing state might at some future time produce profit. For instance, shares in companies, paying no present dividend, but which with further development, &c., have a fair prospect of eventual success. A similar provision was contained in a measure introduced by Lord Westbury three years ago, giving this power to divide property so peculiarly circumstanced to the Court of Chancery. See 31 & 32 Vict. cap. 68, s. 5, which enacts as follows:—"If in any

§ 28.

Power of trustee to accept composition or general scheme of arrangement.

The sanction given for the purposes of this section may be a general permission to do all or any of the above-mentioned things, or a permission to do all or any of them in any specified case or cases.

28. The trustee may, with the sanction of a special resolution of the creditors assembled at any meeting of which notice has been given specifying the object of such meeting, accept any composition offered by the bankrupt, or assent to any general scheme of settlement of the affairs of the bankrupt upon such terms as may be thought expedient, and with or without a condition that the order of adjudication is to be annulled, subject nevertheless to the approval of the Court, to be testified by the judge of the Court signing the instrument containing the terms of such composition or scheme, or embodying such terms in an order of the Court.

Where the annulling the order of adjudication is made a condition of any composition with the bankrupt or of any general scheme for the liquidation of his affairs, the Court, if it approves of such composition or general scheme, shall annul the adjudication on an application made by or on behalf of any person interested, and the adjudication shall be annulled from and after the date of the order annulling the same.

The provisions of any composition or general scheme made in pursuance of this Act may be enforced by the Court on a motion made in a summary manner by any person interested, and any disobedience of the order of the Court made on such motion shall be deemed to be a contempt of Court.

case of bankruptcy, arrangement, or winding-up within this Act, it appears to the liquidators that it will be for the benefit of the estate in liquidation that any part of the assets thereof should be divided in specie, or be otherwise disposed of without sale, they may prepare and file in the Court of Chancery a scheme in that behalf." Sect. 6 enacts, "A scheme may in any case provide that any class of secured creditors shall take in or towards discharge of their claims on the estate the securities held by them at a value to be determined by the Court, or in such manner as the Court shall direct."

The approval of the Court shall be conclusive as to the validity of any such composition or scheme, and it shall be binding on all the creditors so far as relates to any debts due to them and provable under the bankruptcy.* § 29, 30.

29. A trustee shall not, without the consent of the committee of inspection, employ a solicitor or other agent, but where the trustee is himself a solicitor he may contract to be paid a certain sum by way of per-centage or otherwise as a remuneration for his services as trustee, including all professional services, and any such contract shall, notwithstanding any law to the contrary, be lawful. Trustee, if a solicitor, may be paid for services.

30. The trustee shall pay all sums from time to time received by him into such bank as the majority of the creditors in number and value at any general meeting shall appoint, and failing such appointment into the Bank of England; and if he at any time keep in his hands any sum exceeding fifty pounds for more than ten days he shall be subject to the following liabilities; that is to say, Trustees to pay monies into bank.

(1.) He shall pay interest at the rate of twenty pounds per centum per annum on the excess of such sum above fifty pounds as he may retain in his hands:

(2.) Unless he can prove to the satisfaction of the Court that his reason for retaining the money was sufficient, he shall, on the application of any creditor, be dismissed from his office by the Court, and shall have no claim for remuneration, and be liable to any expenses to which the creditors may be put by or in consequence of his dismissal.†

* The objects contemplated by this section are similar to those which for the last eight years have been carried into effect by sect. 110 & sect. 185 of the Bankruptcy Act, 1861, which placed in the hands of the creditors complete control over the administration of their debtor's estate.

† See Bankrupt Law Consolidation Act, 1849, sect. 265, which enacted, that if any assignee retained in his hands any

§ 31.

Payment of Debts and Distribution of Assets.

Description
of debts
proveable in
bankruptcy.

31. Demands in the nature of unliquidated damages arising otherwise than by reason of a contract or promise shall not be proveable in bankruptcy, and no person having notice of any act of bankruptcy available for adjudication against the bankrupt shall prove for any debt or liability contracted by the bankrupt subsequently to the date of his so having notice.*

Save as aforesaid, all debts and liabilities, present

sum exceeding 100l., part of the estate of the bankrupt, the Court was required to charge such assignee with interest at the rate of twenty per cent. per annum on all sums above such amount improperly retained by him. By sect. 175 of the Bankruptcy Act, 1861, it was provided that if the assignee kept in his hands for one week more than 50l., belonging to the estate of the bankrupt, the creditors might debit such assignee with interest, "at any rate not exceeding 20l. per centum by the year for the time such monies were kept in his hands."

* Sect. 153 of the Bankruptcy Act, 1861, provided, "If any bankrupt shall at the time of adjudication be liable by reason of any contract or promise to a demand in the nature of damages, &c." The substituted section enacts that no creditor will be entitled to prove a demand for unliquidated damages unless it arises "by reason of a contract or promise," and the creditor is debarred of his right to prove if he had notice of an act of bankruptcy available for adjudication at the time the debt or liability arose. In *Ex parte Mendel in re Moore*, 33 Law J. Rep. (N. S.) Bankr. 14, 1 De Gex, J. & S. 330, the Court held that the 153rd section of the Bankruptcy Act, 1861, authorising proof in respect of a claim for unliquidated damages applied only where there had been a breach of contract previously to adjudication. Lord Chancellor Westbury observed in reference to sect. 153 of the Bankruptcy Act, 1861:—"That section is a new enactment. The law as it stood in former times was, that no proof could be made for damages unless they were such as could be ascertained by the commissioner without the intervention of a jury. The 153rd section gives a power to direct the damages to be assessed when they arise under any demand existing at the time of adjudication. Undoubtedly it was the intention of the framers of the act that demands of this nature should be limited to cases where there was a cause of action complete at the time of adjudication; and I am therefore of opinion that the 153rd section of the act of 1861 applies to such demands only in the nature of damages as are capable of being enforced against the bankrupt at the time of adjudication."

or future, certain or contingent, to which the bankrupt is subject at the date of the order of adjudication, or to which he may become subject during the continuance of the bankruptcy by reason of any obligation incurred previously to the date of the order of adjudication, shall be deemed to be debts provable in bankruptcy, and may be proved in the prescribed manner before the trustee in the bankruptcy. § 31.

An estimate shall be made according to the rules of the Court for the time being in force, so far as the same may be applicable, and where they are not applicable at the discretion of the trustee, of the value of any debt or liability provable as aforesaid, which by reason of its being subject to any contingency or contingencies, or for any other reason, does not bear a certain value.

Any person aggrieved by any estimate made by the trustee as aforesaid may appeal to the Court, and the Court may, if it think the value of the debt or liability incapable of being fairly estimated, make an order to that effect, and upon such order being made such debt or liability shall, for the purposes of this Act, be deemed to be a debt not provable in bankruptcy, but if the Court think that the value of the debt or liability is capable of being fairly estimated it may direct such value to be assessed with the consent of all the parties interested before the Court itself without the intervention of a jury, or if such parties do not consent by a jury, either before the Court itself or some other competent Court, and may give all necessary directions for such purpose, and the amount of such value when assessed shall be provable as a debt under the bankruptcy.

“Liability” shall for the purposes of this Act include any compensation for work or labour done, any obligation or possibility of an obligation to pay money or money’s worth on the breach of any express or implied covenant, contract, agreement, or undertaking, whether such breach does or does not occur, or is or is not likely to occur or capable of occurring before the close of the bankruptcy, and gene-

§ 31. rally it shall include any express or implied engagement, agreement, or undertaking, to pay, or capable of resulting in the payment of money or money's worth, whether such payment be as respects amount fixed or unliquidated; as respects time present or future, certain or dependent on any one contingency or on two or more contingencies; as to mode of valuation capable of being ascertained by fixed rules, or assessable only by a jury, or as matter of opinion.*

* With respect to the provisions as to proof of debts and liabilities, present or future, certain or contingent, &c., and the power given to estimate and the mode of valuation, &c., it may be observed that the words employed are so general and so comprehensive as to include almost every transaction in which men can engage, from express contract to "remote possibility." Some of the rules which have been laid down by the Courts in the decision of points of a similar nature may usefully be mentioned as guides in the interpretation of the new section. As to annuities, in *Ex parte Van Heythuysen*, an annuity granted by the bankrupt to C. D., in case she survived A. B., may be proved before the happening of the contingency under sect. 175 of the Bankrupt Law Consolidation Act, 1849. 1 Dea. 360.

In a very recent case an action was brought for arrears of an annuity payable by the defendant to the plaintiff who was trustee under a deed of separation made between the defendant and his wife. The arrears in question became due after the bankruptcy of the defendant. The deed contained a proviso that the annuity should cease to be payable if the defendant and his wife came to live together again. The jury having found for the plaintiff, a rule was obtained to enter a non-suit, or a verdict for the defendant, on the ground that the annuity was capable of being valued, and was therefore proveable under the defendant's bankruptcy. The Court of Exchequer held that the contingency upon which the annuity was to cease being beyond the reach of calculation, no value could be put on the annuity, and that the case consequently not falling within the Bankrupt Law Consolidation Act, 1849, sect. 175, the plaintiff was entitled to recover in the action, notwithstanding the bankruptcy of the defendant. *Mudge v. Rowan*, 3 Law J. Notes of Cases, 38. An annuity deed contained the stipulation that the annuitant should use his best endeavours to preserve, extend, and promote the success of a certain business, and not impede its success by any act, neglect, omission or default; that he should perform such services and duties as certain persons could reasonably require; and that he should not carry on a certain business during a certain time and within a certain area; and that all disputes should be referred to arbitration. The Court held that such an annuity was not capable of valua-

32. The debts hereinafter mentioned shall be paid
in priority to all other debts. Between themselves

§ 32

Preferential
debts.

tion under sect. 175 of the Bankrupt Law Consolidation Act, 1849, one of the judges observing that "the act seemed to contemplate an annuity for which there was an original price as a datum of value." *Brett v. Jackson*, 38 Law J. Rep. (N. S.) C. P. 139. See also *Parker v. Ince*, 4 Hurls. & N. 59; 28 Law J. Rep. (N. S.) Exch. 189. See also *Ex parte Robinson in re Nicholson*, 31 Law J. Rep. (N. S.) Bankr. 12. In this case the bankrupt and a creditor on a loan transaction, arranged that the creditor should in addition to interest he paid an annuity so long as any monies remained owing in respect of the loan. The annuity was secured by a bond in a penal sum and by mortgage. The creditor proved against the estate for the money due on the loan, and afterwards tendered a proof in respect of the annuity or for the penal sum mentioned in the bond; but one of the commissioners having refused to allow the proof, the creditor appealed. The Lords Justices held that the annuity was merely in the nature of increased interest, and was not a subject of proof, and dismissed the appeal with costs.

As to Contingent Liability, &c.—In the case of *Cary v. Dawson*, in January, 1866, a sum of money in consols was lent to the promoters of a bill before Parliament. The plaintiffs, the defendant, and others, entered into an undertaking with the lenders, that if the bill was thrown out the consols should be returned, and that if it passed, (which was the event that happened,) an equal amount of stock should be transferred to the lenders, and a sum in the nature of interest on the value of the consols at the time they were lent, from the end of six months to the date of the transfer, should be paid to the lenders. In the following April the defendant was adjudged bankrupt. In July he obtained his order of discharge. In August the bill was passed, but the consols were not transferred till the May following, and the plaintiffs were thereupon compelled to pay under their agreement a sum of money as the equivalent for interest. The Court of Queen's Bench held in an action against the defendant for contribution, in respect of the amount so paid, that his bankruptcy afforded no answer to the claim, as his liability could not have been valued at the date of the adjudication, so as to be provable either under the Bankrupt Law Consolidation Act, 1849, sect. 178, or the Bankruptcy Act, 1861, sect. 154. 38 Law J. Rep. (N. S.) Q. B. 300.

In *Oxlade v. The North Eastern Railway Company*, it was held that when the verdict is given before, but the judgment is not obtained until after the plaintiff has become bankrupt, the defendant's costs are not a "debt or contingent liability," provable under the bankruptcy. 33 Law J. Rep. (N. S.) C. P. 171. In *Ex parte Elmes in re Hughes*, the Court of

§ 32. such debts shall rank equally, and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves; that is to say,

- (1.) All parochial or other local rates due from him at the date of the order of adjudication, and having become due and payable within twelve months next before such time, all assessed taxes, land tax, and property or income tax assessed on him up to the fifth day of April next before the date of the order of adjudication, and not exceeding in the whole one year's assessment;
- (2.) All wages or salary of any clerk or servant in the employment of the bankrupt at the date of the order of adjudication, not exceeding four months' wages or salary, and not exceeding fifty pounds; all wages of any labourer or workman in the employ-

Appeal held that a liability in respect of a breach of covenant for title contained in a purchase deed, arises immediately upon the execution of the deed; therefore, where the bankruptcy of the vendor occurred after the execution of the purchase deed, but before the amount of damage sustained by the purchaser was ascertained, the latter was held entitled to prove for the amount. 33 Law J. Rep. (N. S.) Bankr. 23. In the case of *Mitcalfe v. Hanson*, the House of Lords held, affirming the decision of the Court of Exchequer Chamber, that a covenant to pay premiums was not a liability to pay money within sect. 178 of the Bankrupt Law Consolidation Act, 1849. There A. borrowed money of B., and executed a deed of assignment by way of mortgage to B. of a policy of assurance on his own life, with a covenant to keep up the annual payments for premiums. A. afterwards became bankrupt, and eventually failed to pay some of the premiums which B. paid, and sued A. for the amount, some years after the latter had obtained his certificate under his bankruptcy. Lord Chancellor Cranworth, Lord Westbury, and Lord Chelmsford went fully into the question of the nature of contingent debts, and the machinery provided by the statute for estimating and dealing with them, and held that the covenant in question was not a liability within the Act. 35 Law J. Rep. (N. S.) Q. B. 225.

ment of the bankrupt at the date of the order of adjudication, and not exceeding two months' wages:*

§ 33.

Save as aforesaid, all debts provable under the bankruptcy shall be paid *pari passu*.

33. Where at the time of the presentation of the petition for adjudication any person is apprenticed or is an articled clerk to the bankrupt, the order of adjudication shall, if either the bankrupt or apprentice, or clerk give notice in writing to the trustee to that effect, be a complete discharge of the indenture of apprenticeship or articles of agreement; and if any money has been paid by or on behalf of such apprentice or clerk to the bankrupt as a fee, the trustee may, on the application of the apprentice or clerk, or of some person on his behalf, pay such sum as such trustee, subject to an appeal to the Court, thinks reasonable, out of the bankrupt's property to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served

Preferential claim in case of apprenticeship.

* This provision is more liberal than that contained in sect. 168 of the Bankrupt Law Consolidation Act, 1849, under which the Court might order the payment of the salary or wages due to any clerk or servant of the bankrupt, for any time not exceeding three calendar months, and not exceeding 30*l.* in amount; also the wages of any workman not exceeding 40*s.* The following cases may afford some guide to the classes of persons entitled to preferential payment in respect to wages. As to whether a person in the employment of the bankrupt at the time of bankruptcy was a clerk or constructively a partner: see *Ex parte Hickin*, 3 De Gex & S. 662. A hired servant for a year at a certain sum payable weekly is within the Act. *Ex parte Collier*, 4 Dea. & C. 520; also a person engaged as a traveller at an annual salary, *ex parte Neal*, Mont. & M. 194; and a mate of a ship hired by the captain who was a part owner, *ex parte Homberg*, 2 Mont. D. & D. 642. A clerk who involuntarily quitted the bankrupt's service nine months before the bankruptcy, in anticipation of that event, and entered into other employment, was held not to be entitled to payment of any portion of his wages in full, *Ex parte Gee*, Mont. & C. 99. In *Ex parte Stiff*, Mr. Commissioner Evans held, confirming the decision of the registrar, that reporters and writers exclusively engaged on a daily newspaper were entitled to be paid three months salary in full.

§ 34—36. with the bankrupt under the indenture or articles before the commencement of the bankruptcy, and to the other circumstances of the case.

Where it appears expedient to a trustee he may, on the application of any apprentice or articted clerk to the bankrupt, or any person acting on behalf of such apprentice or articted clerk, instead of acting under the preceding provisions of this section, transfer the indenture of apprenticeship or articles of agreement to some other person.*

Power for landlord to distrain for rent.

34. The landlord or other person to whom any rent is due from the bankrupt may at any time, either before or after the commencement of the bankruptcy, distrain upon the goods or effects of the bankrupt for the rent due to him from the bankrupt, with this limitation, that if such distress for rent be levied after the commencement of the bankruptcy it shall be available only for one year's rent accrued due prior to the date of the order of adjudication, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the overplus due for which the distress may not have been available.

Proof in case of rent and periodical payment.

35. When any rent or other payment falls due at stated periods, and the order of adjudication is made at any time other than one of such periods, the person entitled to such rent or payment may prove for a proportionate part thereof up to the day of the adjudication as if such rent or payment grew due from day to day.†

Interest on debts.

36. Interest on any debt provable in bankruptcy may be allowed by the trustee under the same circumstances in which interest would have been allowable by a jury if an action had been brought for such debt.‡

* This section for the first time introduces the word articted clerk.

† This is substantially the same as sect. 150 of the Bankruptcy Act, 1861.

‡ Under this section a very difficult and responsible duty will devolve upon the trustee who may be *inops concilii*, as under

37. If any bankrupt is at the date of the order of adjudication liable in respect of distinct contracts, as member of two or more distinct firms, or as a sole contractor, and also as member of a firm, the circumstance that such firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of such contracts, against the properties respectively liable upon such contracts.*

§ 37, 38.

Proof in
respect of
distinct
contracts.

38. The trustee, with the consent of the creditors, testified by a resolution passed in general meeting,

Allowance
to bankrupt
for mainte-
nance or
service.

sect. 29 he cannot employ a solicitor without the consent of the committee of inspection.

* This section corresponds with sect. 152 of the Bankruptcy Act, 1861, though the phraseology has been shortened. It was introduced into the Act of 1861 by Lord Cairns, then Sir Hugh Cairns, and its object was to put a final termination to many questions which have occasioned litigation with respect to double proof. See *Goldsmid v. Cazenove*, House of Lords, 29 L. J. Rep. (N.S.) Bank. 17. See also Tudor's Leading Cases on Mercantile and Maritime Law, *Ex parte Rowlandson*, 362, and *Ex parte Smith in re Deane*, the facts of which were these:—A firm of two persons, D. and Y., carrying on business as D. Y. and Co., at Liverpool, and of three persons, D. Y. and Y., at Pernambuco; D. and Y. were adjudicated bankrupts in 1854 at Liverpool. A creditor of both firms proved for a debt under this bankruptcy, and received a dividend, after which receipt the house at Pernambuco also became bankrupt, and the creditor proved the same debt against the estate there, and received a dividend in respect of it. In 1861 an order was made by the commissioner in England that the proof in this country should be expunged, unless the creditor paid to the assignees the dividends received by him at Pernambuco. This order was varied by the Lords Justices, who declared that the creditor was not entitled to any dividend in England except the first which he had received, but without prejudice to any question as to that dividend, or as to any question under the foreign bankruptcy. The assignees presented a petition praying that the creditor might be ordered to refund such first dividend; but it was held (affirming a judgment of the commissioner) that in absence of all evidence to show that the law of Brazil would not have given the creditor the right to receive the dividend there, he was under no obligation as to that which he received here; but that as he had rightfully received, he was entitled to retain it, and the petition was dismissed with costs. *Ex parte Smith in re Deane*, 31 Law J. Rep. (N.S.) Bankr. 60.

§ 39. may from time to time, during the continuance of the bankruptcy, make such allowance as may be approved by the creditors to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services if he is engaged in winding up his estate.*

Set-off.

39. Where there have been mutual credits, mutual debts, or other mutual dealings between the bankrupt and any other person proving or claiming to prove a debt under his bankruptcy, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of such account, and no more, shall be claimed or paid on either side respectively; but a person shall not be entitled under this section to claim the benefit of any set-off against the property of a bankrupt in any case where he had at the time of giving credit to the bankrupt notice of an act of bankruptcy committed by such bankrupt and available against him for adjudication.†

* The object contemplated in this section as to the allowance to the bankrupt, was provided for by sects. 109 and 174 of the Bankruptcy Act, 1861, which empowered the majority in value of the creditors, either at the first meeting or at a dividend meeting, to resolve whether any or what allowances should be given to the bankrupt. Where the creditors at the first meeting omitted to pass any resolution either granting or refusing an allowance to the bankrupt, the Court under the 194th sect. of the Bankrupt Law Consolidation Act, 1849, had discretion to grant an allowance.

† By sect. 171 of the Bankrupt Law Consolidation Act, 1849, the Court is to state the account, and make the set-off. For the future these duties will be performed by the trustee. *In re Duckworth Ex parte Cooper*, a shareholder in a company in course of winding up, being also a creditor of the company, assigned his estates and effects to trustees for his creditors under sect. 192 of the Bankruptcy Act, 1861. The Lords Justices held inasmuch as a set-off of mutual credits was allowed by the Bankrupt Law Consolidation Act, 1849, though not allowed in respect of calls by the Companies Act, 1862, sect. 95, the Court of Chancery sitting as the Court of Appeal in Bankruptcy was bound to allow the claim upon the company to be a set-off

40. A creditor holding a specific security on the property of the bankrupt, or on any part thereof, may, on giving up his security, prove for his whole debt. § 40.
Provision as to secured creditor.

He shall also be entitled to a dividend in respect of the balance due to him after realizing or giving credit for the value of his security, in manner and at the time prescribed.

A creditor holding such security as aforesaid and not complying with the foregoing conditions shall be excluded from all share in any dividend.*

against the calls. In distinguishing the case from *Ex parte Grissell*, 35 Law J. Rep. (N. S.) Chanc. 752, Lord Justice Turner observed that "The legislature has expressly thrown the matter into the Court of Bankruptcy; and therefore strange as it may appear that there should be a set-off where a contributory is a bankrupt, and no set-off when he is not, the set-off must be allowed in the present case." See also *re Davies Ex parte Cleland*, 36 Law J. Rep. (N. S.) Bankr. 45.

* See Mr. Moffatt's Act, the 31 & 32 Vict. cap. 104, which in sect. 3, enacted that "in the computation of the requisite value of the creditors, and for all other purposes of the deed, the amount due to each creditor, after deducting the value of the securities held by him on the debtor's property, shall alone be reckoned." It is perhaps to be regretted that Mr. Moffatt's Act and the sections of the Act of 1861, with which it was grouped, and which together formed a useful code, has been repealed. Since Mr. Moffatt's Act of 1868, the scandalous frauds which previously occurred have been comparatively unknown.

The following recent cases, with respect to proof of debt generally, may be given:—

As to Holders of Bills as Endorsees for Value.—In *Ex parte Petrie in re Petrie*, there would not have been the statutory majority of assents to a deed, under the Bankruptcy Act, 1861, sect. 192, but for the computation of Messrs. Swire and Son among the assenting creditors, in respect of acceptances which they had discounted with a bank at Liverpool, not returned as creditors at all, and which, at the date of registration of the deed, held the bills as endorsees for value. Upon the application of a non-assenting creditor, Petrie was adjudicated bankrupt. Petrie applied to the commissioner to have the adjudication annulled on the ground of the prior execution of an inspectorship deed, which application was refused. The Court of Appeal affirmed the decision of the Commissioner, holding that there was no statutory majority of the creditors, on the ground that the Bank, the holders of 7000*l.* worth of the bills for value, were the only persons entitled to be treated as creditors.

§ 41.

Distribution
of divi-
dends.

Dividends.

41. The trustee shall from time to time, when the committee of inspection determines, declare a divi-

Lord Cairns said: "The deed is in my opinion vicious in the first place, because it does not describe the Bank as one of the creditors of Mr. Petrie, whether assenting or dissenting creditors. But it is vicious beyond that, because it does describe, as the proprietors of this debt, Messrs. Swire and Son. Messrs. Swire and Son were clearly not, at that time, the owners of these bills, nor could they, whatever might have been their dealings with Mr. Petrie, have sued him in respect of the debt represented by the bills, as long as the bills were outstanding, and current in the hands of third parties." Lord Justice Selwyn added that: "At the time of the registration of the deed, the bills were at the Bank under discount, or in other words the bank were then the holders of these bills, and consequently they were the creditors entitled to assent or dissent in respect of them." 37 Law J. Rep. (N. S.), Bankr. 13.

In *Ex parte The Darlington District Joint Stock Banking Company in re Riches*, bills were drawn and endorsed by a partner in the partnership name, and discounted by a person who had notice that the partner was dealing with the bills for his private purposes: the person having such notice was bound to ascertain the extent of the authority of the individual partner, and if the dealing were not authorized, he had, upon the bankruptcy of the firm, no right to prove against the joint estate of the partnership, except to the extent to which the partnership might be indebted to the individual partner. 34 Law J. Rep. (N. S.) Bankr. 10. See also *Ex parte Wyld in re Wyld*, 30 Law J. Rep. (N. S.) Bankr. 10; and *Ex parte Graham in re Grant*, 33 Law J. Rep. (N. S.) Bankr. 1.

As to proof by Partners, &c.—In *Ex parte Collinge in re Holdsworth*, it was held that a partner could not prove a debt against the estate of his co-partner, as long as there are joint debts of the partnership unsatisfied. 33 Law J. Rep. (N. S.) Bankr. 9.

The rule that a partner cannot prove against the separate estate of his co-partner until the joint debts are satisfied, was intended for the benefit of the joint creditors; and is only applicable to prevent the creditor partner from coming into competition with them. Therefore, where the separate estate of the debtor partner is insufficient for the payment of his separate debts, exclusive of the debt of his co-partner, the rule has no application. *Ex parte Topping in re Levy and Robson*, 34 Law J. Rep. (N. S.) Bankr. 13.

In *Ex parte Bass in re Motion*, it was held, that "a solvent partner cannot prove in bankruptcy against the estate of his co-partner, so long as there are joint creditors unpaid, although

dend amongst the creditors who have proved to his satisfaction debts provable in bankruptcy, and shall § 41.

evidence be offered that the joint estate is ample to pay the joint creditors." 36 Law J. Rep. (n. s.) 39. See also *Scott v. Izon*, 34 Beav. 434. As to share of a deceased partner left in the partnership with security, for the same to be paid by instalment, see *Ex parte Brooking, &c.* 31 Law J. Rep. (n. s.) Bankr. 15. In *Scott v. Izon* this further point was decided, that when a testator has authorized the employment of his estate in trade, though the firm in which it is so employed becomes bankrupt, no proof can be made against the estate of the bankrupts in respect of the money of the testator so employed.

As to proof in respect of breach of trust.—In *Ex parte Cadwallader in re James*, an executor and trustee of a will was declared bankrupt. Under the will he took both real and personal estate, in trust for the testator's widow, E. C., for her life, with remainder to her infant children. He fraudulently misapplied the trust property, and under his bankruptcy, E. C. was admitted to prove against his estate. On the choice of assignee, E. C. (the widow) applied for leave to vote, but her application was refused by the registrar, and also by the commissioner; but on appeal the Lords Justices held that she was sufficiently interested to be entitled to vote. 31 Law J. Rep. (n. s.) Bankr. 66. Also as to proof in consequence of a breach of trust made through mistake, see *Ex parte Norris in re Bid-dulph*, 38 Law J. Rep. (n. s.) Bankr. 5.

As to proof in respect of agreement to repair, &c.—In *Ex parte Tasker in re Whitney*, the question was whether a landlord of a mill held under an agreement in writing for a lease which contained a clause bidding the tenant to repair, could prove, under the tenant's bankruptcy, for the damage sustained through a fire by which the mill had been burned down. It was afterwards verbally agreed that an insurance should be effected by the landlord, the tenant paying the premiums. After the fire, the landlord compounded his claim with the insurance office, and rebuilt the premises, and alleged that such rebuilding cost much more than the sum recovered from the insurance office. The tenant afterwards became bankrupt, and the landlord attempted to prove his claim under the agreement to repair. The commissioner, however, rejected the proof. The Lords Justices, on appeal, held, that at the time of the bankruptcy the appellant had a clear claim upon the estate, and that there must be an assessment of the damage sustained by him. 2 Law J. Rep. (notes of cases), 79. As to damages for breach of covenant, &c., see *Batteley v. Stainsby*, 31 Law J. Rep. (n. s.) C. P. 337.

As to proof under the Act to amend the Law of Partnership, 28 & 29 Vict. cap. 86, which authorizes loans to be made to

§ 42, 43. distribute the same accordingly; and in the event of his not declaring a dividend for the space of six months, he shall summon a meeting of the creditors, and explain to them his reasons for not declaring the same.

Provision
for creditors
residing at a
distance, &c.

42. In the calculation and distribution of a dividend it shall be obligatory on the trustee to make provision for debts provable in bankruptcy appearing from the bankrupt's statements, or otherwise, to be due to persons resident in places so distant from the place where the trustee is acting that in the ordinary course of communication they have not had sufficient time to tender their proofs, or to establish them if disputed, and also for debts provable in bankruptcy, the subject of claims not yet determined.

Right of
creditor
who has not
proved debt
before de-
claration of
a dividend.

43. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any monies for the time being in the hand of the trustee any dividend or dividends he may have failed to receive before such monies are made applicable to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

persons engaged in trade upon a written contract that the lender shall receive a rate of interest varying with the profits; or shall receive a share of such profits arising from such trade, without being a partner, &c., sect. 5 enacts as follows: "In the event of any such trader as aforesaid being adjudged a bankrupt, or taking the benefit of any Act for the relief of insolvent debtors, or entering into an arrangement to pay his creditors less than twenty shillings in the pound, or dying in insolvent circumstances, the lender of any such loan as aforesaid, shall not be entitled to recover any portion of his principal, or of the profits or interest payable in respect of such loan, nor shall any such vendor of a goodwill as aforesaid be entitled to recover any such profits as aforesaid, until the claims of the other creditors of the said trader for valuable consideration in money or money's worth have been satisfied." Little use appears to have been made of this valuable Act; for one case has only occurred in the Court of Bankruptcy under its provisions, and that case is still pending.

44. When the trustee has converted into money all the property of the bankrupt, or so much thereof as can, in the joint opinion of himself and of the committee of inspection, be realized without needlessly protracting the bankruptcy, he shall declare a final dividend, and give notice of the time at which it will be distributed. § 44—47.
Final dividend.

45. The bankrupt shall be entitled to any surplus remaining after payment of his creditors, and of the costs, charges, and expenses of the bankruptcy. Bankrupt entitled to surplus.

46. No action or suit for a dividend shall lie against the trustee, but if the trustee refuse to pay any dividend the Court may, if it think fit, order the trustee to pay the same, and also to pay out of his own monies interest thereon for the time that it is withheld, and the costs of the application.* No action for dividend.

Close of Bankruptcy.

47. When the whole property of the bankrupt has been realized for the benefit of his creditors, or so much thereof as can, in the joint opinion of the trustee and committee of inspection, be realized without needlessly protracting the bankruptcy, or a composition or arrangement has been completed, the trustee shall make a report accordingly to the Court, and the Court, if satisfied that the whole of the property of the bankrupt has been realized for the benefit of his creditors, or so much thereof as can be realized without needlessly protracting the bankruptcy, or that composition or arrangement has been completed, shall make an order that the bankruptcy has closed, and the bankruptcy shall be deemed to have closed at and after the date of such order. Close of bankruptcy.

A copy of the order closing the bankruptcy may be published in the London Gazette, and the production of a copy of such Gazette containing a copy of the order shall be conclusive evidence of the order having been made and of the date and contents thereof.†

* See sect. 190, Bankrupt Consolidation Law Act, 1849.

† It is to be presumed that in all cases under this section the

§ 48.

*Discharge of Bankrupt.*Order of
discharge.

48. When a bankruptcy is closed, or at any time during its continuance, with the assent of the creditors testified by a special resolution, the bankrupt may apply to the Court for an order of discharge ; but such discharge shall not be granted unless it is proved to the Court that one of the following conditions has been fulfilled, that is to say, either that a dividend of not less than ten shillings in the pound has been paid out of his property, or might have been paid except through the negligence or fraud of the trustee, or that a special resolution of his creditors has been passed to the effect that his bankruptcy or the failure to pay ten shillings in the pound has, in their opinion, arisen from circumstances for which the bankrupt cannot justly be held responsible, and that they desire that an order of discharge should be granted to him ; and the Court may suspend for such time as it deems to be just, or withhold altogether, the order of discharge in the circumstances following ; namely, if it appears to the Court on the representation of the creditors made by special resolution, of the truth of which representation the Court is satisfied, or by other sufficient evidence, that the bankrupt has made default in giving up to his creditors the property which he is required by this Act to give up ; or that a prosecution has been commenced against him in pursuance of the provisions relating to the punishment of fraudulent debtors, contained in the "Debtors Act, 1869," in respect of any offence alleged to have been committed by him against the said Act.*

order declaring the bankruptcy to be closed, will be published in the London Gazette, in the same manner as an order annulling adjudication. The use of the word "may" leaves the matter in doubt.

* The conditions in the above section are substituted for those provided in the 159th section of the Bankruptcy Act, 1861, which, though carefully framed, failed to exclude that class of insolvents with whom the process of "white-washing," as it is called, was so popular. With regard to the

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49. An order of discharge shall not release the bankrupt from any debt or liability incurred by § 49.

Effect of
order of
discharge.

difficulties imposed on the bankrupt in obtaining his order of discharge and the general status of an undischarged bankrupt (section 54), Mr. Edward Lawrance has recently observed :—

“I always have thought, and still think, that if a man has given up all his estate he is entitled to his release. If he has contracted his debts fraudulently or inconsistently with fair dealing, punish him ; but if he has surrendered all he has, give him at least the opportunity of retrieving his position, but do not pass upon him sentence of perpetual mercantile excommunication. It may, indeed, be said that a bankrupt is entitled to his order of discharge if his estate shows ten shillings in the pound, but experience has shown that men who have assets which, upon realization by forced sale, would produce ten shillings in the pound are never likely to suspend payment until those assets are reduced to a much smaller amount. The estate which produced ten shillings in the pound under bankruptcy would probably represent assets which, if realised in the usual course of trade, would be worth fifteen shillings in the pound. Again, is it not an inducement for a man to buy largely upon the eve of his bankruptcy for the purpose of approaching more nearly to the required amount of ten shillings ? But assuming that his estate only realizes five shillings in the pound, and that his debts are large, how can he, so long as he is without his order of discharge, get into business, earn and accumulate the necessary profits to make up the deficiency ? Will the wholesale houses trust a man under those circumstances ? I think not ; and he thus therefore, will not be likely to obtain, or they to receive the statutable amonnt. Then a bankrupt is to have, if his estate at the close of the bankruptcy (and this is a very uncertain term) has not produced ten shillings in the pound, a *quasi* letter of licence for three years, to enable him to make up the deficiency, and if at the end of three years he has not made up that amonnt, then the creditors, whose hands are stayed during the three years, are restored to their rights as creditors, not in respect of the difference between the five shillings he may have paid and the ten shillings he is required to pay, but for the remainder fifteen shillings in the pound, thereby, of course, trebling the amount of his liability. But the creditors are not to take proceedings against the bankrupt upon the judgment so to be obtained, without leave of the Court, who will inquire into the debtor's means and ascertain the amount of new debts contracted. Now what a scene of fraud this will open. Does any reasonable being suppose that even if the bankrupt is possessed apparently of considerable assets representing after-acquired property, the old creditors will participate in it to the extent of a single shilling ? Every species of device will be resorted to for the purpose of

§ 49. means of any fraud or breach of trust, nor from any debt or liability whereof he has obtained forbearance by any fraud, but it shall release the bankrupt from all other debts provable under the bankruptcy, with the exception of—

(1.) Debts due to the Crown:

(2.) Debts with which the bankrupt stands charged at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence :

And he shall not be discharged from such excepted debts unless the Commissioners of the Treasury certify in writing their consent to his being discharged therefrom.

An order of discharge shall be sufficient evidence of the bankruptcy, and of the validity of the proceedings thereon, and in any proceedings that may be instituted against a bankrupt who has obtained

interposing between the old creditors and their rights. I strongly deprecate legislation which has a tendency to engender fraud. No doubt it is true that the Court may, with the assent of the creditors, by special resolution grant a bankrupt his order of discharge without payment of ten shillings in the pound, if in their, the creditors' opinion, his failure to pay the required ten shillings has arisen from circumstances for which the bankrupt cannot justly be held responsible. Now, it will be exceedingly difficult to interpret these words ; but, assuming the bankrupt to have paid the required ten shillings, or to have been absolved from that payment by the special resolution of the creditors, what is the value of the order of discharge when obtained, if it is not to be available if the debtor's liability has been incurred by means of any fraud or breach of trust (not specified), or from any debt or liability forbearance of which he had obtained by means of any fraud ? The words are so wide, and the language so vague, that it seems to me that every order of discharge may be questioned at any period of a man's life, and that a conveyancing counsel advising upon an abstract of title to property in which the bankrupt was interested would, in addition to the usual inquiry whether he had obtained his order of discharge, be bound to inquire into the circumstances under which every debt was contracted."

an order of discharge in respect of any debt from § 50—52. which he is released by such order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

50. The order of discharge shall not release any person who, at the date of the order of adjudication, was a partner with the bankrupt, or was jointly bound or had made any joint contract with him.*

Exception
of joint
debtors.

Release of Trustee.

51. When the bankruptcy is closed the trustee shall call a meeting of the creditors to consider an application to be made to the Court for his release. At the meeting the trustee shall lay before the assembled creditors an account showing the manner in which the bankruptcy has been conducted, with a list of the unclaimed dividends, if any, and of the property, if any, outstanding, and shall inform the meeting that he proposes to apply to the Court for a release.

Release of
trustee.

The creditors assembled at the meeting may express their opinion as to the conduct of the trustee, and they, or any of them, may appear before the Court and oppose the release of the trustee.

The Court, after hearing what, if anything, can be urged against the release of the trustee, shall grant or withhold the release accordingly, and if it withhold the release shall make such order as it thinks just, charging the trustee with the consequences of any act or default he may have made or done contrary to his duty, and shall suspend his release until such charging order has been complied with, and the Court thinks just to grant the release of the trustee.

52. Unclaimed dividends, and any other monies arising from the property of the bankrupt, remaining under the control of the trustee at the close of the bankruptcy of any bankrupt, or accruing there-

Duty of
trustee as to
unclaimed
dividends,
and out-
standing
property.

* See Section 163 of the Bankruptcy Act, 1861.

§ 53, 54. after shall be accounted and paid over to such account as may be directed by the rules of Court to be made with the sanction of the Treasury; and any parties entitled thereto may claim the same in manner directed by such rules. The trustee shall also deliver a list of any outstanding property of the bankrupt to the prescribed persons, and the same shall, when practicable, be got in and applied for the benefit of the creditors in manner prescribed.

Effect of
release of
trustee.

53. The order of the Court releasing the trustee of a bankruptcy shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee of such bankrupt; but such order may be revoked by the Court on proof that it was obtained by fraud.

Status of undischarged Bankrupt.

Status of
undis-
charged
bankrupt.

54. Where a person who has been made bankrupt has not obtained his discharge, then, from and after the close of his bankruptcy, the following consequences shall ensue:

(1.) No portion of a debt provable under the bankruptcy shall be enforced against the property of the person so made bankrupt until the expiration of three years from the close of the bankruptcy; and during that time, if he pay to his creditors such additional sum as will, with the dividend paid out of his property during the bankruptcy, make up ten shillings in the pound, he shall be entitled to an order of discharge in the same manner as if a dividend of ten shillings in the pound had originally been paid out of his property:

(2.) At the expiration of a period of three years from the close of the bankruptcy, if the debtor made bankrupt has not obtained an order of discharge, any balance remaining unpaid in respect of any debt proved in such bankruptcy (but without interest in the mean-

time) shall be deemed to be a subsisting debt in the nature of a judgment debt, and, subject to the rights of any persons who have become creditors of the debtor since the close of his bankruptcy, may be enforced against any property of the debtor, with the sanction of the Court which adjudicated such debtor a bankrupt, or of the Court having jurisdiction in bankruptcy in the place where the property is situated, but to the extent only, and at the time and in manner directed by such Court, and after giving such notice and doing such acts as may be prescribed in that behalf.*

§ 55.

Audit.

55. The trustee having had his quarterly statement of accounts audited by the committee of inspection, shall, within the prescribed time, forward the certified statement in the prescribed form to an officer to be called the comptroller in bankruptcy, and if he fail to do so he shall be deemed guilty of a contempt of court to be punishable accordingly. The first and any subsequent comptroller shall be appointed by the Lord Chancellor, and hold office during his pleasure, and shall be paid such salary as the Lord Chancellor may, with the sanction of the Treasury, direct. The comptroller shall be provided with such office in London, and

Appoint-
ment of
comptroller.

* How are the rights of the subsequent creditors to be ascertained and enforced? The provision of the Bankruptcy Bill introduced by Lord Cairns in 1868, dealt with this important question in the following manner:—The bankrupt was summoned before the Court and his future property was made liable, after making “a reasonable allowance for the maintenance of the bankrupt and his family and the payment of debts, claims and demands not provable under the bankruptcy.” Clause 338. See also sect. 169 of the Bankruptcy Act, 1869. If during the period of three years the bankrupt is sued, the Court no doubt would, under sect. 13 of the Bankruptcy Act, 1869, restrain or stay the proceedings.

§ 56, 57. with such officers, clerks, and servants, as may be directed by the Lord Chancellor, with the approval of the Treasury. The officers, clerks, and servants in the office of the comptroller, shall be appointed and dismissible by the comptroller, and there shall be allowed and paid to him such sum as the Treasury may from time to time direct for the expenses of his office, and of such clerks and other persons as may be deemed necessary by the Treasury.*

Return of
accounts to
comptroller.

56. Every trustee of bankrupt shall from time to time, as may be prescribed, and not less than once in every year during the bankruptcy, transmit to the comptroller a statement showing the proceedings in such bankruptcy up to the date of the statement containing the prescribed particulars, and made out in the prescribed form; and any trustee failing to transmit accounts in compliance with this section shall be deemed guilty of a contempt of court, and be punishable accordingly.

Duty of
comptroller.

57. The comptroller shall examine the statements transmitted to him, and shall call the trustee to account for any misfeasance, neglect, or omission which may appear on such statements, and may require the trustee to make good any loss the estate of the bankrupt may have sustained by such misfeasance, neglect, or omission. If the trustee fail to comply with such requisition of the comptroller, the comptroller may report the same to the Court; and the Court, after hearing the explanation, if any, of the trustee, shall make such order in the premises as it thinks just.

*The office of comptroller created by this section corresponds to the office of accountant in bankruptcy created by the Scottish Bankruptcy Act, 19 & 20 Vict. cap. 79, s. 156. This officer in Scotland is appointed by the Queen; and he must be a person "versant in law and accounts;" must hold no other office "appointed to by government;" and must not, either directly or indirectly by himself, or by a partner, be engaged in practice, &c. The salary of the accountant is 850*l.* per annum, and he is allowed three clerks. The duties of the accountant are defined in the sections from 157 to 163 of the same Act.

58. The comptroller may at any time require any trustee to answer any inquiry made by him in relation to any bankruptcy in which such trustee is engaged, and may, if he think fit, apply to the Court to examine on oath such trustee or any other person concerning such bankruptcy; he may also direct a local investigation to be made of the books and vouchers of the trustees.

§ 58—60.

Powers of
comptroller.

PART III.

CONSTITUTION AND POWERS OF COURT.

Description of Court.

59. From and after the commencement of this Act the following provisions shall take effect with respect to the Courts having jurisdiction in bankruptcy, and their officers; that is to say,

Court to
consist of
London
Court and
county
courts.

If the person sought to be adjudged a bankrupt reside or carry on business within the London Bankruptcy District as hereinafter defined, or be not resident in England, then "the Court" shall mean, for the purposes of this Act, the Court of Bankruptcy in London as constituted by this Act, and hereinafter referred to as the London Bankruptcy Court:

If the person sought to be adjudged a bankrupt, being resident in England, do not reside or carry on business within the London Bankruptcy District, then "the Court" shall, subject to the provisions herein-after contained for removing the proceedings, mean the County Court of the district in which such person resides or carries on business, herein-after referred to as the Local Bankruptcy Court.

60. The London Bankruptcy district shall, for the purposes of this Act, comprise the following

Definition
of the
London

§ 61—63. places ; that is to say, the city of London and the liberties thereof, and all such parts of the metropolis and other places as are situated within the district of any county court described as a metropolitan county court in the list contained in the second schedule hereto.

Constitu-
tion of the
London
Bankruptcy
Court.

61. The London Bankruptcy Court shall from and after the commencement of this Act consist of a judge, to be called the Chief Judge in Bankruptcy, and, subject to the provisions of this Act with respect to the officers of the existing London Bankruptcy Court, of such number of registrars not exceeding four, clerks, ushers, and other subordinate officers, as may be determined by the Chief Judge with the sanction of the Treasury.

Subject to the provisions of this Act with respect to the appointment of the first Chief Judge, the office of Chief Judge in Bankruptcy shall be filled by such one of the judges of Her Majesty's Superior Courts of Common Law or of Equity as may, with his assent, be assigned to hold such office by the Lord Chancellor; the judge so assigned shall hold the office of Chief Judge in Bankruptcy in addition to the office of judge in the Court to which he belongs. Any puisne judge or Vice-Chancellor appointed to any of the said Courts after the passing of this Act shall, when required by the Lord Chancellor, perform the duties of Chief Judge in Bankruptcy.

Appoint-
ment of
registrars
and other
officers.

62. Subject to the provisions in this Act with respect to the officers of the existing London Bankruptcy Court, the registrars, clerks, ushers, and other subordinate officers thereof shall be appointed by the chief judge for the time being, and may be removed by him and others appointed in their stead if the judge is of opinion that they are negligent, unskilful, or untrustworthy in their performance of their duties, or ought in his opinion to be removed for any other just cause.

Salaries
of officers.

63. Subject as aforesaid, there shall be paid, out of monies provided by Parliament, to the registrars, clerks, ushers, and other subordinate officers such

salaries as the Chief Judge with the sanction of the Treasury may determine. § 64, 65.

64. Subject as aforesaid, the registrars, clerks, ushers, and other subordinate officers of the London Bankruptcy Court shall perform such duties as may from time to time be assigned to them by the Chief Judge with the assent of the Lord Chancellor.

Duties of subordinate officers of Court.

65. The London Court of Bankruptcy shall continue to be a court of law and of equity and a principal court of record,* and the Chief Judge in Bankruptcy shall have all the powers, jurisdiction, and privileges possessed by any judge of Her Majesty's Superior Courts of Common Law at Westminster, or by any judge of Her Majesty's High Court of Chancery, and the orders of such judge shall be of the same force as if they were judgments in the Superior Courts of Common Law or decrees in the High Court of Chancery. The Chief Judge in Bankruptcy may sit in chambers, and when in chambers shall have the same jurisdiction and exercise the same powers as if sitting in open court.†

Jurisdiction of the London Court of bankruptcy.

* An essential and inherent right of a Court of Record is the power to fine and imprison for contempt, which has been defined to be "a disobedience of the Court, or an opposing or despising the authority, justice or dignity thereof." The immunity from action is another privilege of a judge of record, and trespass will not lie against him, acting judicially, although without jurisdiction in fact, unless it can be shown affirmatively that he knew, or had the means of knowing, of the defect of jurisdiction; and whenever the subject matter is within his general jurisdiction the jurisdiction in the particular case is presumed. See *Calder v. Halket*, 3 Moo. P. C. 28; and *Taafe v. Downes*, *ib.* 36.

† Sect. 81 of the Companies Act, 1862, provides that "where the Court of Chancery in England or Ireland makes an order for winding up a company under this Act, it may, if it thinks fit, direct all subsequent proceedings for winding up the same to be had in the Court of Bankruptcy having jurisdiction in the place in which the registered office of the Company is situate; and thereupon such last-mentioned Court of Bankruptcy shall, for the purposes of winding up the company, be deemed to be 'the Court' within the meaning of the Act, and shall have for the purpose of such winding up all the powers of the High Court of Chancery, or of the Court of Chancery in Ireland, as the case may require."

§ 66—68. 66. Every judge of a local Court of Bankruptcy shall, for the purposes of this Act, in addition to his ordinary powers as a county court judge, have all the powers and jurisdiction of a judge of Her Majesty's High Court of Chancery, and the orders of such judge may be enforced accordingly in manner prescribed.*

Jurisdiction
of county
court
judges.

67. The Chief Judge in Bankruptcy and every judge of a local Court of Bankruptcy may, subject and in accordance with the rules of Court for the time being in force, delegate to the registrar or to any other officer of his Court such of the powers vested in him by this Act as it may be expedient for the judge to delegate to him.

Powers of
court to
delegate
authority to
registrar.

Scale of
fees.

68. The Lord Chancellor shall, with the sanction of the Treasury, from time to time prescribe a scale of fees to be charged for any business done by any Court or officer thereof under this Act; and the Treasury shall direct whether the same shall be imposed by stamps or otherwise, and by whom and in what manner the same shall be collected, accounted for, and appropriated, and whether any and what remuneration shall be allowed to any person performing any duties under this Act.†

* As to the transfer of proceedings to the London Bankruptcy Court from a local Bankruptcy Court, and from one local Bankruptcy Court to another local Bankruptcy Court, &c., see sect. 80, paragraphs 3, 5 & 6.

† The Courts of Justice Salaries and Funds Act, 1869, contains the following provisions as to fees and stamps, in relation to, among other Courts named, the Court of Bankruptcy:—

Sect. 18. The Lord Chancellor, with the concurrence of the Treasury, may from time to time by order increase, reduce or abolish all or any of the existing fees, and appoint new fees to be taken in relation to proceedings in the Court of Bankruptcy.

Until any such order is made the fees existing at the commencement of this Act shall continue to be taken.

Sect. 19. After the commencement of this Act all fees whatever, or payments in the nature or lieu of fees, for the time being payable in the Court of Bankruptcy, or any of the offices therein, including the per-centage payable out of estates of lunatics, shall, except so far as the Lord Chancellor may from time to time otherwise by order direct, be taken by means of stamps, and if taken in money in pursuance of any such order

69. No judge, registrar, or officer having jurisdiction in bankruptcy, or attached to any Court having jurisdiction in bankruptcy, shall, during his continuance in office, be capable of being elected or

§ 69.

Judges and officers in bankruptcy to be ineligible.

shall be paid into the receipt of Her Majesty's Exchequer, and be carried to the Consolidated Fund.

Sect. 20. All or any stamps to be used under this Act shall be impressed or adhesive, as the Treasury from time to time direct.

Sect. 21. The Treasury, with the concurrence of the Lord Chancellor, or, in the case of the Court of Admiralty, of the judge of that Court, may from time to time make such rules as seem fit for regulating the use of stamps under this Act, and particularly for prescribing the application thereof to documents from time to time in use or required to be used for the purposes of such stamps, and for insuring the proper cancellation of adhesive stamps, and keeping accounts of such stamps.

Sect. 22. Any document which ought to bear a stamp under this Act shall not be of any validity unless and until it is properly stamped: but if any such document is through mistake or inadvertence received, filed, or used without being properly stamped, the Lord Chancellor or a judge of one of the said Courts may, if he thinks fit, order that the same be stamped as in such order may be directed, and on such document being stamped accordingly the same and every proceeding relative thereto shall be as valid as if such document had been properly stamped in the first instance.

Schedule B. of the Bankruptcy Act, 1861, provided that every petition presented to the Court of Bankruptcy, in which the assets were above 300*l.*, should bear a stamp of 5*l.*; every petition in which the assets were below 300*l.*, should bear a stamp of 1*l.*; every order of discharge a stamp of 1*l.*; every declaration of insolvency, 2*s.* 6*d.*; every application for a meeting, 5*s.*, &c., &c. As the Bankruptcy Act, 1869, is silent with respect to the imposition of stamp duties on petitions and other proceedings, the first question likely to arise under the new statute, in all probability will be as to the stamp duty; but the Bankruptcy Act, 1869, must be read in connection not only with the Imprisonment for Debt Abolition Act, and the Insolvent Debtors and Bankruptcy Repeal Act, but in connection with the Courts of Justice Salaries and Funds Act, the 18th sect. of which determines the question mentioned above, by enacting as follows:—"After the commencement of this Act the Lord Chancellor, with the concurrence of the Treasury, may from time to time by order increase, reduce, or abolish all or any of the existing fees and appoint new fees to be taken in relation to proceedings in the Court of Bankruptcy. Until any such order is made the fees existing at the commencement of this Act shall continue to be taken."

§ 70. sitting as a member of the House of Commons; and no registrar or officer of such Court shall, during his continuance in office, either directly or indirectly, by himself or partner, act as an attorney or solicitor in any proceeding in any bankruptcy in any Court of which he is registrar or officer, or in any appeal from such Court, or in any prosecution of a bankrupt by order of such Court, under pain of dismissal by the judge; and such dismissal shall be in writing, stating the reasons for the same; and a copy thereof shall be sent to the Chief Judge in Bankruptcy, who, if he shall see fit, may reinstate such registrar or officer.

Solicitors of Court of Chancery may practise in Bankruptcy Court.

70. Every attorney and solicitor of the superior courts shall be, and may practise as a solicitor of, and in the Court of Bankruptcy, and in matters before the Chief Judge or registrars, in the London Court of Bankruptcy, in court or in chambers, may appear and be heard without being required to employ counsel; and if any person not being such attorney or solicitor practises in the Court of Bankruptcy as attorney or solicitor, he shall be deemed guilty of a contempt of the Court.*

* The Bankruptcy Act, 1861, sect. 212, provided that "every solicitor of the High Court of Chancery, now or hereafter admitted as a solicitor of the Court of Bankruptcy, may practise as such solicitor in the said Court or in any District Court, and as to all matters before the commissioners or in chambers may appear and plead without being required to employ counsel; and in case any person, not being such solicitor, shall practise in the Court as a solicitor, he shall be deemed guilty of a contempt of Court, and be liable to all the penalties incident thereto." *In re Broadhouse Ex parte Broadhouse*, the Court of Appeal held "that clerks to solicitors, though themselves solicitors, not being placed on the record in the matter, or named in the proceedings, cannot claim to appear as agents to their employers, and in this capacity exercise the statutory right." Lord Justice Cairns, after citing the above section, observed as follows:—"That section, in my opinion, did nothing more than this: it absolved the solicitors of the Court from the necessity of appearing by counsel, authorized the solicitor to appear in his own person, but did not in any way alter the ordinary character in which a solicitor alone is entitled to appear in any Court, viz., the solicitor of a par-

71. Every Court having jurisdiction in bankruptcy under this Act may review, rescind, or vary any order made by it in pursuance of this Act. Any person aggrieved by any order of a local Bankruptcy Court in respect of a matter of fact or of law made in pursuance of this Act may appeal to the Chief Judge in Bankruptcy, and it shall be lawful for such judge to alter, reverse, or confirm such order as he thinks just. Any order made by the Chief Judge in

§ 71.

Appeal from courts.

ticular client. In that character, and that character alone, is a solicitor entitled to appear as representing the interests of a third party. That is the condition of his being heard—and for obvious reasons. The main object of the Court in allowing and being anxious to favour the appearance of the solicitor as representing another person, is that the Court should have before it one of its own officers, who, on the one hand, is under an obligation to the Court, because he is the officer of the Court, and, on the other hand, is under an obligation, because he is in privity with the suitor, and is the actual person who represents the suitor; and unless that chain of connexion is maintained and kept complete, the object of the Court in having the assistance of and allowing the work of solicitors to be so performed is entirely defeated.” Lord Justice Rolt, commenting on the words of the section, said: “Is it a reasonable construction of language to say that the clerk of the solicitor is to practise as such solicitor in the Court of Bankruptcy? I think it is not. I think it was not intended that he should be entitled to appear and plead. He is the mere clerk of that solicitor who is practising as such solicitor in that particular matter, and, in my opinion, he is not under that particular section entitled to appear and plead in Court. Then it is said that the practice as to agents will allow the clerk of a solicitor, being himself a solicitor, to appear and act as an agent. I think that argument also cannot be maintained. It is not necessary at all to determine whether there is any objection to a solicitor employing another solicitor in the same town or city, say London, for instance—to appear as his agent, in common-law matters, or bankruptcy matters. There can be no doubt at all that either one solicitor may employ another solicitor as such agent, although in the same town, or they may be both on the record and may appear as joint solicitors; but that does not apply to an individual retained and employed, not placed on the record nor named in the proceedings.” 36 Law J. Rep. (N. S.) Bankr. 29.

It may be observed that the section includes the registrars of the London Court of Bankruptcy as well as the Chief Judge when sitting “in Court or in Chambers;” and no doubt its effect will be to prevent the intrusion of unauthorised persons.

§ 72. Bankruptcy, whether in respect of a matter brought before him on appeal or not, shall be subject to an appeal to the Court of Appeal in Chancery (which Court, for the purposes of this Act, shall be and form a Court of Record, and shall have all the jurisdiction, powers, and authorities of the Court of Bankruptcy, to be exercisable either originally or on appeal, and shall have all the powers and authorities of the Court of Chancery relative to the trial of questions of fact, by jury, issue, or otherwise), and also, with the leave of the Court of Appeal, to the House of Lords, but no appeal shall be entertained under this Act except in conformity to such rules of Court as may for the time being be in force in relation to such appeal.*

General
power of
bankruptcy
courts.

72. Subject to the provisions of this Act, every Court having jurisdiction in bankruptcy under this

* *As to Appeals to the House of Lords from the Court of Appeal in Chancery sitting in Bankruptcy, see In re Newton*, where the Lords Justices held that notwithstanding the repeal of the 18th section of the B. L. C. Act, 1849, by the 24 & 25 Vict. c. 134, the discretionary power of the Lords Justices, as to appeals to the House of Lords, remains. There is no right of appeal by common law to the House of Lords, 31 Law J. Rep. (N. S.) Bankr. 81.

As to re-hearing before the Lords Justices instead of allowing an appeal to the House of Lords, see Ex parte Drinkwater In re Drinkwater, 32 Law J. Rep. (N. S.) Bankr. 20. As to the admission of fresh evidence on an appeal from a district Commissioner to the Lords Justices, see *In re Potts*, 31 Law J. Rep. (N. S.) Bankr. 34; also *Ex parte Page In re Neal*, 1 De Gex, J. & S. 283; and *Ex parte Miller In re Miller*, 32 Law J. Rep. (N. S.) Bankr. 45. A creditor who has not proved his debt when an order of discharge is granted cannot appeal against the order. *Ex parte Greenwood In re Monk and Brooks*, 33 Law J. Rep. (N. S.) Bankr. 50.

As to Costs. In re Byrne, the appellant had successfully appealed from an order of the Commissioner requiring him to produce the books of his employers, and Lord Chancellor Cranworth gave the appellant the costs of the application to discharge the order of the Commissioner. 1 Law J. (Notes of Cases) 166.

The above cases are given, as they will no doubt affect the course of procedure in appeals from the local Bankruptcy Courts to the Court of the Chief Judge in London.

The country District Courts of Bankruptcy are, by sect. 130, abolished "at the commencement of the Act;" and their

Act shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, arising in any case of bankruptcy coming within the cognizance of such Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case; and no such Court as aforesaid shall be subject to be restrained in the execution of its powers under this Act by the order of any other Court, nor shall any appeal lie from its decisions, except in manner directed by this Act; and if in any proceeding in bankruptcy there arises any question of fact which the parties desire to be tried before a jury instead of by the Court itself, or which the Court thinks ought to be tried by a jury, the

§ 72.

business is to be wound up by the registrar, who may be continued in office for a time,—and the residue is to be transferred to the London Court or to such “County Court or County Courts” as the Lord Chancellor may direct. All the County Courts are not to become local Bankruptcy Courts; but one in each district is to be clothed with bankruptcy jurisdiction; and this arrangement may be a matter of convenience both to the practitioner and to the public—because, no doubt, in a central and important town there will be attached to the Court an efficient staff of officers always available for bankruptcy business. See sect. 79, which authorizes the Lord Chancellor to exclude any County Court from having jurisdiction in bankruptcy, &c. Appeals from the country District Courts were to the Court of Appeal in Chancery, sitting in bankruptcy; but after the transfer of this business to a local Bankruptcy Court, will the appeal be, as heretofore, to the Lords Justices, or to the Chief Judge in Bankruptcy? Under the Bankruptcy Act, 1861, sect. 66, every decision of a county court judge, acting in bankruptcy, was subject to appeal to the Court of Appeal in Chancery. With regard to new business in the local Bankruptcy Courts the appeal must be to the Chief Judge; but the Insolvent Debtor and Bankruptcy Repeal Act, by sect. 20, provides as follows:—“nor shall this repeal interfere with the prosecution or affect the course of any legal proceeding pending in bankruptcy, or otherwise” before the commencement of this Act. Will the business transferred to the local Bankruptcy Courts, and the business in the county courts exercising bankruptcy jurisdiction, under the Act of 1861, and pending on the 1st of January, 1870, come within the saving words above-mentioned, and thus require the appeal to be to the Lords Justices?

§ 73. Court may direct such trial to be had, and such trial may be had accordingly, in the London Court of Bankruptcy, in the same manner as if it were the trial of an issue in one of the Superior Courts of Common Law, and in the County Court in the manner in which jury trials in ordinary cases are by law held in such Court.*

Orders and Warrants of Court.

Enforce-
ment of
warrant and
orders of
courts.

73. Any order made by a Court having jurisdiction in bankruptcy in England under this Act shall be enforced in Scotland and Ireland in the Courts having jurisdiction in bankruptcy in such countries respectively, in the same manner in all respects as if such order had been made by the Courts which are hereby required to enforce the same; and in like manner any order made by the Court in Scotland having jurisdiction in bankruptcy shall be enforced in England and Ireland, and any order made by the Court having jurisdiction in bankruptcy in Ireland shall be enforced in England and Scotland by the Courts respectively having jurisdiction in bankruptcy in the division of the United Kingdom where the orders made require to be enforced, and in the same

* This section confers upon the Court full power to deal with and decide any question which may arise in the course of the bankruptcy. For example, if the validity of a settlement were impeached under the Act of the 5th of Eliz., or the 91st sect. of the Bankruptcy Act, 1869, the parties, instead of being compelled to incur the expenses of a suit in Chancery, would only have to take a simple proceeding in the Court of Bankruptcy to have the question decided by the chief judge sitting by himself or with the assistance of a jury. The same simple procedure would no doubt be applied to the determination of questions respecting "order and disposition"—bills of sale, fraudulent preferences, &c. It may be assumed also that if in such and similar cases, any party should have recourse to a tribunal having concurrent jurisdiction, the Court of Bankruptcy, under sect. 13 of the Act of 1869, would have power to restrain such proceeding, whether a suit in Chancery or an action at common-law. This is the first definite attempt which has been made to confer upon one Court plenary jurisdiction in all matters coming before it—and thus may be regarded as a most important experiment in legislation.

manner in all respects as if such order had been made by the Court required to enforce the same in a case of bankruptcy within its own jurisdiction.* § 74—76.

74. The London Bankruptcy Court, the Local Bankruptcy Court, the Courts having jurisdiction in bankruptcy in Scotland and Ireland, and every British Court elsewhere having jurisdiction in bankruptcy or insolvency, and the officers of such Courts respectively, shall severally act in aid of and be auxiliary to each other in all matters of bankruptcy, and an order of the Court seeking aid, together with a request to another of the said Courts, shall be deemed sufficient to enable the latter Court to exercise, in regard to the matters directed by such order, the like jurisdiction which the Court which made the request, as well as the Court to which the request is made, could exercise in regard to similar matters within their respective jurisdictions.†

Courts in England to be auxiliary to other courts, &c.

75. Any Court having jurisdiction in bankruptcy in England under this Act may, if it thinks fit, order that a person named in the order being in Scotland or in Ireland shall be examined there.‡

Examination in Scotland or Ireland.

76. Any warrant of a Court having jurisdiction in bankruptcy in England under this Act may be enforced in Scotland, Ireland, the Isle of Man, the Channel Islands, and elsewhere in Her Majesty's dominions, in the same manner and subject to the same privileges in and subject to which a warrant issued by any justice of the peace against a person for an indictable offence against the laws of England may be executed in such countries respectively in pursuance of the Acts of Parliament in that behalf; and any search warrant issued by a Court having jurisdiction in bankruptcy under this Act for the discovery of any property of a bankrupt may be executed in manner prescribed or in the same manner and subject to the same privileges in and subject to

Warrants of bankruptcy courts.

* See sect. 219 of the Bankruptcy Act, 1861.

† See sect. 220 of the Bankruptcy Act, 1861.

‡ See sects. 216 & 217 of the Bankruptcy Act, 1861, which prescribe, in detail, the mode and manner of examination.

§ 77, 78. which a search warrant for property supposed to be stolen may be executed according to law.

Commit-
ment to
Prison.

77. Where any Court having jurisdiction in bankruptcy under this Act commits any person to prison, the commitment may be to such convenient prison as the Court thinks expedient, and if the gaoler of any prison refuses to receive any prisoner so committed he shall be liable for every such refusal to a penalty not exceeding one hundred pounds.

General Rules.

General
rules to be
made by
Lord Chan-
cellor, with
advice of
chief judge.

78. The Lord Chancellor, with the advice of the Chief Judge in Bankruptcy, may from time to time make, and may from time to time revoke and alter, general rules, in this Act described as rules of Court, for the effectual execution of this Act, and of the objects thereof, and the regulation of the practice and procedure of bankruptcy petitions and the proceedings thereon.

Any general rules made as aforesaid may prescribe regulations as to the service of bankruptcy petitions, including provisions for substituted service; as to the valuing of any debts proveable in a bankruptcy; as to the valuation of securities held by creditors; as to the giving or withholding interest or discount on or in respect of debts or dividends; as to the funds out of which costs are to be paid, the order of payment, and the amount and taxation thereof; and as to any other matter or thing, whether similar or not to those above enumerated, in respect to which it may be expedient to make rules for carrying into effect the objects of this Act; and any rules so made shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if they were enacted in the body of this Act.

Any rules made in pursuance of the section shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting; and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Par-

liament, and any rules so made shall be judicially § 79, 80. noticed.

Until rules have been made in pursuance of this Act, and so far as such rules do not extend, the principles, practice, and rules on which Courts having jurisdiction in bankruptcy have heretofore acted in dealing with bankruptcy proceedings shall be observed by any Court having jurisdiction in bankruptcy cases under this Act.*

Change of Jurisdiction by Chancellor.

79. Notwithstanding anything in this Act contained, the Lord Chancellor may from time to time, by order under his hand, exclude any county court from having jurisdiction in bankruptcy, and for the purposes of bankruptcy jurisdiction may attach its district or any part thereof to any other county court or courts, and may from time to time revoke or alter any order so made.

Change of jurisdiction by Lord Chancellor.

PART IV.

SUPPLEMENTAL PROVISIONS.

As to Proceedings.

80. The following regulations shall be made with respect to proceedings in bankruptcy; namely,

- (1.) Every bankruptcy petition shall be accompanied by an affidavit of the petitioner in

Supplemental regulations as to proceedings in bankruptcy.

* The power given by this section to make, revoke, and alter general rules, not only for the particular purposes specified "but as to any other matter or thing, whether similar or not," and the further provision that "any rules so made shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if they were enacted in the body of this Act," are so extensive that Lord Cairns described them as authorizing the Lord Chancellor in reality to frame a new bankruptcy law. The words of the section, no doubt, will form the subject of judicial interpretation.

§ 80.

the prescribed form, verifying the statements contained in such petition:

- (2.) Where two or more bankruptcy petitions are presented against the same debtor or against debtors being members of the same partnership, the Court may consolidate the proceedings, or any of them, upon such terms as the Court thinks fit:
- (3.) Where proceedings against the debtor are instituted in more courts than one the London Court of Bankruptcy may, on the application of any creditor, direct the transfer of such proceedings to the London Court of Bankruptcy, or to any local bankruptcy Court:
- (4.) Where the petitioner does not proceed with due diligence on his petition the Court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of a petitioning creditor:
- (5.) Where the creditors resolve by a special resolution that it will be more convenient that the proceedings in any local bankruptcy Court should be transferred to the London court or to some other local Court, or where the judge of a local Court certifies that in his opinion the bankruptcy would be more advantageously conducted in the London Court or in some other local Court, and the creditors do not by resolution object to the transfer, the petition shall be transferred to and all subsequent proceedings thereon had in the London Court or such other local Court:
- (6.) Subject to the provisions of this Act, every Court having original jurisdiction in bankruptcy shall be deemed to be the same Court, and to have jurisdiction throughout England; and cases may be transferred

from one Court to another in such manner as may be prescribed: § 80.

- (7.) A corporation may prove a debt, vote, and otherwise act in bankruptcy, by an agent duly authorised under the seal of the corporation:*
- (8.) A creditor may, in the prescribed manner, by instrument in writing, appoint a person to represent him in all matters relating to any debtor or his affairs in which a creditor is concerned in pursuance of this Act, and such representative shall thereupon, for all the purposes of this Act, stand in the same position as the creditor who appointed him:†
- (9.) When a debtor who has been adjudicated a bankrupt dies, the Court may order that the proceedings in the matter be continued as if he were alive:
- (10.) The Court may, at any time, on proof to its satisfaction that proceedings in bankruptcy ought to be stayed, by reason that negotiations are pending for the liquida-

* This provision virtually repeals, as far as bankruptcy is concerned, sect. 64 of the Companies' Act, 1862, which enacts as follows:—"Any summons, notice, order, or proceeding requiring authentication by the company, may be signed by any director, secretary or other authorized officer of the company, and need not be under the common seal of the company." The practice of the London Court has been to hold a proof on the part of a company to be "a proceeding" within the section—and, therefore, not requiring to be authenticated by the seal of the company.

† The agent when duly appointed will be entitled to attend all meetings, to vote for and against all resolutions, to sign all necessary papers and documents, to inspect the books of the trustee (sect. 22), and to act generally as his principal would have done had he attended personally. But in connection with this paragraph must be read sect. 70, which provides, "if any person, not being an attorney or solicitor, practises in the Court of Bankruptcy as attorney or solicitor, he shall be deemed guilty of a contempt of the Court." Therefore, an agent would not be permitted to argue any question or perform any of the duties which properly belong to a solicitor.

§ 81.

tion of the affairs of the bankrupt by arrangement or for the acceptance of a composition by the creditors in pursuance of the provisions herein-after contained, or on proof to its satisfaction of any other sufficient reason for staying the same, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as the Court may think just.*

Consequences of annulling of adjudication.

81. Whenever any adjudication in bankruptcy is annulled all sales and dispositions of property and payments duly made, and all acts theretofore done, by the trustee or any person acting under his authority, or by the Court, shall be valid, but the property of the debtor who was adjudged a bankrupt shall in such case vest in such person as the Court may appoint, or in default of any such appointment revert to the bankrupt for all his estate or interest therein upon such terms and subject to such conditions, if any, as the Court may declare by order. A copy of the order of the Court annulling the adjudication of a debtor as a bankrupt shall be forthwith published in the London Gazette and advertised locally in the prescribed manner, and the production of a copy of the Gazette containing such order shall be conclusive evidence of the fact of the adjudication having been annulled, and of the terms of the order annulling the same.†

* This is a very useful provision and similar in principle to that contained in sect. 199 of the Bankruptcy Act, 1861, which enabled the Court to stay proceedings in the bankruptcy after the execution of the deed by the debtor, pending the time allowed for registration.

† As to the effect of "annulling" reference may be made to the following recent case (not yet reported); the facts of which are as follows:—

Mrs. Graham having a power of appointment over certain property, subject to the life interest therein of her mother, Mrs. Payne, by her will, dated the 16th of February, 1863, directed the trustees to pay to her husband, the defendant, H. C. Tempest Graham, out of the income of the trust property, and, if

82. No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the Court before which an objection is made to such proceeding is of opinion that substantial injustice has been caused by such defect or irregularity, and that such injustice cannot be remedied by any order of such Court.

§ 82, 83.

Formal defects not to invalidate proceedings.

As to Trustees and Committee of Inspection.

83. The following regulations shall be made with respect to the trustee and committee of inspection:

Regulations as to trustees, &c.

insufficient, out of the capital, an annuity of 100*l.* during his life, but with a direction that if he should become bankrupt, or should assign, charge or encumber, or suffer any act whereby the same or any part thereof would, if belonging absolutely to him, become vested in any other person or persons, then and in such case the said annuity should not be payable, or should cease to be payable, as the case might require, in the same manner as if her said husband were dead. By a codicil to her will made in May, 1864, the annuity was increased from 100*l.* to 150*l.* Mrs. Graham died in June, 1864. In January, 1868, Mr. Graham was adjudicated bankrupt on his own petition. On the 4th of April, 1868, Mrs. Payne, the tenant for life of the property, died, and on the 21st of July in that year an order was made by the Court of Bankruptcy, upon the petition of Graham, with the consent of his creditors, annulling his bankruptcy. The main question in the suit was whether Graham was entitled to his annuity, or whether the clause of forfeiture took effect by reason of the existence of the bankruptcy at the time when the tenant for life died. Vice-Chancellor James said that the cases all proceeded upon this principle, that the general intention of gifts of this kind is the personal enjoyment of the legatee, and if that personal enjoyment is defeated by the bankruptcy alienation, or any act on the part of the legatees, then the clause of forfeiture takes effect. What was the position of affairs when the annuity first became payable, on the 4th of April, 1869? On the 4th of April, 1868, when the tenant for life died, Mr. Graham had been adjudicated bankrupt, and if that state of things had continued, the annuity would have been forfeited. But the bankrupt, possibly from the death of the tenant for life, was minded to exert himself, and on the 21st of July, 1868, succeeded in getting rid of the adjudication, so that before the annuity became actually payable (April, 1869) he ceased to be a bankrupt. The annulment did relate back to the adjudication, and the result of the whole thing was that before the forfeiture could arise the cause for forfeiture was gone. The defendant had ceased to be a bankrupt, and the clause of forfeiture

§ 83.

- (1.) The creditors may, if they think fit, appoint more persons than one to the office of trustee, and where more than one are appointed they shall declare whether any act required or authorised to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are in this Act included under the term "trustee," and shall be joint tenants of the property of the bankrupt. The creditors may also appoint persons to act as trustees in succession in the event of one or more of the persons first-named declining to accept the office of trustee:
- (2.) If any vacancy occur in the office of trustee by death, resignation, or otherwise, the creditors in general meeting shall fill up such vacancy, and a general meeting for the purpose of filling up such vacancy may be convened by the continuing trustee, if there be more than one, or by the registrar on the requisition of any creditor:
- (3.) If, through any cause whatever, there is no trustee acting during the continuance of a bankruptcy, the registrar of the Court for the time being having jurisdiction in the bankruptcy shall act as such trustee:
- (4.) The Court may, upon cause shown, remove any trustee. The creditors may, by special resolution at a meeting specially called for that purpose, of which seven days' notice has been given, remove the trustee and appoint another person to fill his office, and the Court shall give a certificate declaring him to be the trustee:*

did not take effect. (*Trappes v. Meredith*, before Vice-Chancellor James, December 9th, 1869, Weekly Notes, 1869, 265.)

* The power conferred upon the creditors to remove a trustee "by special resolution at a meeting specially called for the purpose," appears to be unlimited, since no provision is made for

- (5.) If a trustee be adjudged bankrupt, he shall cease to be trustee, and the registrar shall, if there be no other trustee, call a meeting of creditors for the appointment of another trustee in his place: § 83.
- (6.) The property of the bankrupt shall pass from trustee to trustee, including under that term the registrar when he fills the office of trustee, and shall vest in the trustee for the time being during his continuance in office, without any conveyance, assignment, or transfer whatever:
- (7.) The trustee of a bankrupt may sue and be sued by the official name of "the trustee of the property of a bankrupt," inserting the name of the bankrupt, and by that name may hold property of every description, make contracts, sue and be sued, enter into any engagements binding upon himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office:
- (8.) The certificate of appointment of a trustee shall, for all purposes of any law in force in any part of the British dominions requiring registration, enrolment, or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled, and recorded accordingly:
- (9.) All acts and things by this Act authorised or required to be done by or to the registrar may be done within the district of each

any appeal to the Court by or on behalf of the removed trustee. In all probability, the creditors, when dissatisfied with the conduct of the trustee, will, as a matter of justice to the trustee, instead of passing a special resolution, apply to the Court and show cause for his removal.

§ 83.

Court having jurisdiction in bankruptcy by or to the registrar of that Court:

- (10.) Any member of the committee of inspection may resign his office by notice in writing signed by him, and delivered to the trustee:
- (11.) The creditors may by resolution fix the quorum required to be present at a meeting of the committee of inspection:*
- (12.) Any member of the committee of inspection may also be removed by a special resolution at any meeting of creditors of which the prescribed notice has been given, stating the object of the meeting:
- (13.) On any vacancy occurring in the office of a member of the committee of inspection by removal, death, resignation, or otherwise, the trustee shall convene a meeting of creditors for the purpose of filling up such vacancy:
- (14.) The continuing members of the committee of inspection may act, notwithstanding any vacancy in their body; and where the number of members of the committee of inspection is for the time being less than five, the creditors may increase that number so that it do not exceed five:
- (15.) No defect or irregularity in the election of a trustee or of a member of the committee of inspection shall vitiate any act bonâ fide done by him; and no act or proceeding of the trustee or of the creditors shall be invalid by reason of any failure of the creditors to elect all or any members of the committee of inspection:
- (16.) If a member of the committee of inspection become a bankrupt his office shall thereupon become vacant:

* It is presumed that the quorum of the committee of inspection will be determined at the first meeting held under sect. 16.

- (17.) Where there is no committee of inspection, any act or thing or any direction or consent by this Act authorized or required to be done or given by such committee may be done or given by the Court on the application of the trustee. § 84—86.

84. The registrar may adjourn the first meeting of creditors from time to time and from place to place, subject to the directions of the Court; but if, at such first meeting of creditors or at some adjournment thereof, no trustee is appointed by reason of the prescribed quorum not being present, or for any other reason whatever, the Court may annul the adjudication, unless it deems it expedient to carry on the bankruptcy with the aid of the registrar as trustee. Moreover, if at any time during the bankruptcy no new trustee is appointed to fill a vacancy in that office, the Court may either carry on the bankruptcy with the aid of the registrar as trustee or annul the order of adjudication, as it thinks just.

Power of Court, on failure of creditors, to appoint trustee.

As to Power over Bankrupt.

85. The Court, upon the application of the trustee, may from time to time order that, for such time as the Court thinks fit, not exceeding three months from the date of the order of adjudication, post letters addressed to the bankrupt at any place or any of the places mentioned in the order, shall be redirected, sent, or delivered by the Postmaster-General or the officers acting under him, to the trustee or otherwise as the Court directs, and the same shall be done accordingly.*

Post letters addressed to bankrupt.

86. The Court may, by warrant addressed to any constable or prescribed officer of the Court, cause a debtor to be arrested, and any books, papers, monies, goods, and chattels in his possession to be seized, and

Arrest of bankrupt under certain circumstances.

* This section corresponds with sect. 124 of the Bankrupt Law Consolidation Act, 1849 : the only difference being that the letters are to be redirected by the post-office authorities to the creditors' trustee, and not to the official assignee as heretofore.

§ 87. him and them to be safely kept as prescribed until such time as the Court may order, under the following circumstances:

- (1.) If, after a petition of bankruptcy is presented against such debtor, it appear to the Court that there is probable reason for believing that he is about to go abroad or to quit his place of residence with a view of avoiding service of the petition, or of avoiding appearing to the petition; or of avoiding examination in respect of his affairs, or otherwise delaying or embarrassing the proceedings in bankruptcy:*
- (2.) If, after a petition in bankruptcy has been presented against such debtor, it appear to the Court that there is probable cause for believing that he is about to remove his goods or chattels with a view of preventing or delaying such goods or chattels being taken possession of by the trustee, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his goods or chattels, or any books, documents, or writings which might be of use to his creditors in the course of his bankruptcy:
- (3.) If after the service of the petition on such debtor, or after an adjudication in bankruptcy against him, he remove any goods or chattels in his possession above the value of five pounds, without the leave of the trustee, or if, without good cause shown, he fails to attend any examination ordered by the Court.

As to Property devolving on Trustee.

Proceeds of
sale and
seizure of
goods.

87. Where the goods of any trader have been taken in execution in respect of a judgment for a

* The words, "embarrassing the proceedings in bankruptcy" are extremely ambiguous; and as the provision in which they occur is penal they must be construed strictly. Upon what evidence will the Court think itself justified in acting?

sum exceeding fifty pounds and sold, the sheriff, or in case of a sale under the direction of the County Court, the high bailiff or other officer of the County Court, shall retain the proceeds of such sale in his hands for a period of fourteen days, and upon notice being served on him within that period of a bankruptcy petition having been presented against such trader, shall hold the proceeds of such sale, after deducting expenses, on trust to pay the same to the trustee; but if no notice of such petition having been presented be served on him within such period of fourteen days, or if, such notice having been served, the trader against whom the petition has been presented is not adjudged a bankrupt on such petition, or on any other petition of which the sheriff, high bailiff, or other officer has notice, he may deal with the proceeds of such sale in the same manner as he would have done had no notice of the presentation of a bankruptcy petition been served on him.*

88. Where a bankrupt is a beneficed clergyman, the trustee may apply for a sequestration of the profits of the benefice, and the certificate of the appointment of the trustee shall be sufficient authority for the granting of sequestration without any writ or other proceeding, and the same shall accordingly be issued as on a writ of *levari facias* founded on a judgment against the bankrupt, and shall have priority over any other sequestration issued after the commencement of the bankruptcy, except a sequestration issued before the date of the order of adjudication by or on behalf of a person who at the time of the issue thereof had not notice of an act of bankruptcy committed by the bankrupt, and available against him for adjudication; but the sequestrator

§ 88.

Sequestration of ecclesiastical benefice.

* See sect. 73 of the Bankruptcy Act, 1861. It is presumed that the words, "after deducting expenses," will include also the expenses incurred by the creditor in obtaining the judgment and execution. The section, it may be added, does not provide that the goods shall "be sold by the sheriff by public auction, and not by bill of sale or private contract." See sect. 74 of the Bankruptcy Act, 1861.

§ 89. shall allow out of the profits of the benefice to the bankrupt, while he performs the duties of the parish or place, such an annual sum, payable quarterly, as the bishop of the diocese in which the benefice is situate directs; and the bishop may appoint to the bankrupt such or the like stipend as he might by law have appointed to a curate duly licensed to serve the benefice in case the bankrupt had been non-resident.*

Appropriation of portion of pay of officers to creditors.

89. Where a bankrupt is or has been an officer of the army or navy, or an officer or clerk or otherwise employed or engaged in the Civil Service of the Crown, or is in the enjoyment of any pension or compensation granted by the Treasury, the trustee during the bankruptcy, and the registrar after the close of the bankruptcy, shall receive for distribution amongst the creditors so much of the bankrupt's pay, half pay, salary, emolument, or pension as the Court, upon the application of the trustee, thinks just and reasonable, to be paid in such manner and at such times as the Court, with the consent in writing of the chief officer of the department under which the pay, half pay, salary, emolument, pension, or compensation is enjoyed, directs.†

* This section is taken from sect. 135 of the Bankruptcy Act, 1861, the proviso at the end of which allowing the sequestrator to pay an annual sum to the bankrupt "while he performs the duties of the parish or place," was originally suggested by Lord St. Leonards in his valuable *Handy-Book on Property Law*, 7th edition, p. 75. But the proviso as to priority and notice is now for the first time introduced. See on this point *Hopkins v. Clarke*, 5 Best & S. 753.

† This section is in substance the same as sect. 134 of the Bankruptcy Act, 1861. With regard to officers in the Civil Service, the following Treasury Minute was issued on the 30th November, 1868 :—

"The attention of this Board has been frequently given to cases of bankruptcy and insolvency on the part of persons holding offices in the public service, and likewise to a practice which has been found to prevail, to some extent, amongst clerks and others, of putting their names on what are called accommodation bills, and then getting themselves involved in the pecuniary difficulties of others.

"My lords have reason to believe that there are persons, dis-

90. Where a bankrupt is in the receipt of a salary or income other than as aforesaid, the Court upon

§ 90.

Appropriation of portion of salary to creditors.

counters of bills, who, taking advantage of the inexperience of young men usually when they first enter into the public service, and inducing them to put their names on bills, supply them with money at exorbitant rates of interest, in the expectation that by threats of the exposure and consequent dismissal of these young men, their parents or other relatives may be induced to discharge these exorbitant demands.

"It has been the anxious desire of every department in the state of late years, and Parliament has liberally co-operated, to raise the civil servants of the Crown in efficiency and general estimation; but it is obvious that all efforts on the part of Government or the heads of departments to raise the standard of the Civil Service, must be to a great extent unsuccessful so long as members of the service thus allow themselves to be involved in pecuniary difficulties, and to become the victims of usurious money lenders.

"It is unnecessary for my lords to point out that this pernicious practice must be destructive of those feelings of honour and independence which my lords are happy to state are, and and their lordships trust will be always, characteristic of all classes of Her Majesty's civil servants. The young man who puts his name upon a bill for a sum of money, suffering a discount which sometimes amounts, as my lords are informed to 50 or even 60 per cent., must necessarily lose all feelings of independence and self-respect; he becomes the miserable dependant of the usurer who has ministered to his extravagance: his course must be downwards, and he too frequently resorts to the meanness of an untruth, in the hope of concealing his indiscretion or extravagance.

"Very painful instances have occurred, in which, from these causes, my lords have been obliged to dismiss from the Civil Service of Her Majesty, gentlemen whose abilities and attainments might have raised them to high positions.

"But the practices referred to lead to further and serious public inconvenience; not only does the general character of the service suffer materially, but the value of the individual officer is necessarily deteriorated by the position in which he is placed in consequence of such improvident habits. As observed in a minute of the Board of Stamps and Taxes, dated the 23rd of June, 1862, 'an efficient performance of his official duty is not to be expected from any person involved in pecuniary difficulties, as the time and thoughts of such a person, instead of being engaged in his official business, must necessarily be occupied in constant efforts to meet the exigencies of the day: and further, it is highly inexpedient that any officer in such circumstances should be placed in a position of trust.'

"Not unfrequently the pecuniary embarrassment of an employé

§ 90. the application of the trustee shall from time to time make such order as it thinks just for the payment

in the public service is the cause of absence from his duties, either with the view of avoiding the importunity of his creditors, or of obtaining protection under the Bankruptcy Act. And where such protection is accorded, independently of the inconvenience and discredit to the service, as is well observed in a minute of the Board of Customs of 9th April, 1866, 'the officer is placed by this course in a very difficult position, as it generally happens that upon the final discharge of the party, the Court orders a portion of his salary to be appropriated to the liquidation of his debts, varying in amount according to the circumstances of each case. By this course the public service is damaged. The officer upon his return to duty is called upon to act, very probably in a responsible situation, with diminished salary, disproportional to the value of the service required of him, and with a character in some manner impaired.'

"It is the firm determination of the Board of Treasury to adopt every means within their lordships' power for correcting such evils as these in the public service, and with this object my lords have caused to be prepared, for the guidance of the departments subordinate to this Board, the accompanying rules, founded upon those which have been long in existence in the revenue establishments and in the audit department. Their lordships desire that these rules may be transmitted to all public departments, in the hope that by an uniform course of action in such cases by the heads of offices, an effectual check may be placed upon the practices referred to.

"My lords, however, appeal with confidence not only to the heads of departments and gentlemen of experience and position in the Civil Service, but to the junior members of the service themselves, to co-operate with them in repressing the evils to which they have referred.

"Appointments in the Civil Service, at the very outset, are now made the reward of merit. Promotion by merit is the established rule in the service, and to every young man who becomes the servant of the Crown in the Civil Service, a way is open to independence and even eminence.

"But my lords are desirous of impressing upon the members of the Civil Service that, in proportion as these advantages are increased, in the same degree does it become imperative as a duty, and one which my lords on their part are, to the utmost of their power, resolved to discharge, to maintain rigidly the moral standard of the service and the independent position of its members.

"My lords are fully aware that there are cases in which pecuniary embarrassments are the result of causes beyond control. A gentleman in the Civil Service with a small salary may unavoidably fall into difficulties from sickness in his family, or from other similar causes; there can be no discredit in such

of such salary or income, or of any part thereof, to the trustee during the bankruptcy, and to the registrar if necessary after the close of the bankruptcy, to be applied by him in such manner as the Court may direct.* § 90.

cases, and there will be found no indisposition to treat them with the consideration they deserve.

“The rules which my lords would enforce and recommend for general observance are as follows:—

“1. That it is to be understood that serious pecuniary embarrassment, from whatever cause, must be regarded as a circumstance which necessarily has the effect of impairing the efficiency of a public servant, and of rendering him less valuable than he would otherwise be.

“2. That such embarrassment, if occasioned by imprudence or other reprehensible cause, will be held to be an offence, as affecting the respectability of the service, and the trustworthiness of the individual; any person who has so thus conducted himself, will be considered to have forfeited that honourable position in the service which is necessary to give him a claim to promotion or increase of salary from length of service; and these benefits will not be permitted to accrue to him again until he shall have relieved himself from the discredit of such a position. Aggravated cases of this description will be noticed whenever they become known; and such measures will be taken either in the manner above adverted to, or in a manner more summary and severe, as the circumstances may appear to deserve.

“3. That the mere fact, under whatever plea, of becoming a party to accommodation bills, whether for his own purposes, or for another person, and whether resulting in pecuniary embarrassment or not, will subject a civil servant to the consequences described in the preceding paragraph.

“4. That in the event of any civil servant being arrested, or being adjudicated a bankrupt, or entering into a composition with his creditors under the Bankruptcy Act, he will, on the fact being known, be suspended from duty and salary, and will not be reinstated unless, after examination of the facts and of the schedule prepared by the Court, it shall appear that his difficulties have been occasioned by unavoidable misfortune, and not by extravagance or culpable improvidence, or unless the case shall be characterized by previous circumstances of extenuation.

“5. That any person who shall not immediately, on his being arrested, or proceedings being taken with a view to bankruptcy, inform the head of his department of the fact, shall, upon its becoming known, be removed from the service without any expectation of being reinstated.”

* This section is new, and extends generally the power to set

§ 91.

Avoidance
of voluntary
settlements.

91. Any settlement of property made by a trader not being a settlement made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife, shall, if the settlor becomes bankrupt within two years after the date of such settlement, be void as against the trustee of the bankrupt appointed under this Act, and shall, if the settlor becomes bankrupt at any subsequent time within ten years after the date of such settlement, unless the parties claiming under such settlement can prove that the settlor was at the time of making the settlement able to pay all his debts without the aid of the property comprised in such settlement, be void against such trustee. Any covenant or contract made by a trader, in consideration of marriage, for the future settlement upon or for his wife or children of any money or property wherein he had not at the date of his marriage any estate or interest, whether vested or contingent in possession or remainder, and not being money or property of or in right of his wife, shall, upon his becoming bankrupt before such property or money has been actually transferred or paid pursuant to such contract or covenant, be void against his trustee appointed under this Act.

“Settlement” shall for the purposes of this section include any conveyance or transfer of property.*

aside “salary or income or any part thereof” which previously had been confined to officers in the army and navy and other persons engaged in the Civil Service of the Crown, &c. (sect. 134 of the Bankruptcy Act, 1861); but when a bankrupt by misconduct had rendered himself liable to any of the consequences mentioned in sect. 159 of the Bankruptcy Act, 1861, the Court could grant the discharge “subject to any condition or conditions touching any salary, pay, emolument, profits, wages, earnings or income which may afterwards become due to the bankrupt.”

* This section is intended to prevent some of the frauds which were previously perpetrated by means of voluntary settle-

92. Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own monies in favour of any creditor, or any person in trust for any creditor, with a view of giving such creditor a preference over the other creditors, shall, if the person making, taking, paying, or suffering the same become bankrupt within three months after the date of making, taking, paying, or suffering the same, be deemed fraudulent and void as against the trustee of the bankrupt appointed under this Act; but this section shall not affect the rights of a purchaser, payee, or incumbrancer in good faith and for valuable consideration.*

§ 92—94.
Avoidance
of fraudu-
lent pre-
ference.

93. Any treasurer or other officer, or any banker, attorney, or agent of a bankrupt, shall pay and deliver to the trustee all monies and securities in his possession or power, as such officer or agent, if he be not by law entitled to retain as against the bankrupt or the trustee; if he do not he shall be guilty of a contempt of Court, and may be punished accordingly on the application of the trustee.

Payment
money by
agents to
trustee.

94. Nothing in this Act contained shall render invalid,—

Protection
of certain
transactio
with bank-
rupt.

ments and covenants to settle future property, &c. See on the subject generally 13 of Eliz. c. 5, and 27 of Eliz. c. 4; also *Alton v. Harrison*, 38 Law J. Rep. (N. S.) Chanc. 669, and the cases cited therein; and the case of *Allen v. Bonnett*, 18 W. R. 183, before Vice-Chancellor Malins, on the 10th December, 1869. For the future, when the settlement is impeached, the onus of proof as to the solvency of the settlor will be thrown on those who claim under it—and not, as before, on those who impeach it. The section is limited to traders as defined in schedule 1 of the Bankruptcy Act, 1869.

* Section 133 of the Bankrupt Law Consolidation Act, 1849, limited no time; but it may be expected that the period of three months now fixed may tend to lessen the many cases of fraudulent preference which have crowded the Common Law Courts. See the recent cases of *Woodhouse v. Murray*, 38 Law J. Rep. (N. S.) Q. B. 28; *Marks v. Feldman*, 38 Law J. Rep. (N. S.) Q. B. 220; *Heilbut v. Nevill*, 38 Law J. Rep. (N. S.), C. P. 273; and *Isitt v. Beeston*, 38 Law J. Rep. (N. S.) Ex. 89.

§ 95.

- (1.) Any payment made in good faith and for value received to any bankrupt before the date of the order of adjudication by a person not having at the time of such payment notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication :
- (2.) Any payment or delivery of money or goods belonging to a bankrupt, made to such bankrupt by a depositary of such money or goods before the date of the order of adjudication, who had not at the time of such payment or delivery notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication :
- (3.) Any contract or dealing with any bankrupt, made in good faith and for valuable consideration, before the date of the order of adjudication, by a person not having, at the time of making such contract or dealing, notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication.

Protection of certain transactions entered into by or in relation to the property of the bankrupt.

95. Subject and without prejudice to the provisions of this Act relating to the proceeds of the sale and seizure of goods of a trader, and to the provisions of this Act avoiding certain settlements, and avoiding, on the ground of their constituting fraudulent preferences, certain conveyances, charges, payments, and judicial proceedings, the following transactions by and in relation to the property of a bankrupt shall be valid, notwithstanding any prior act of bankruptcy,—

- (1.) Any disposition or contract with respect to the disposition of property by conveyance, transfer, charge, delivery of goods, payment of money, or otherwise howsoever made by any bankrupt in good faith and for valuable consideration, before the date of the order of adjudication, with any person not having at the time of the making

of such disposition of property notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication: § 96.

- (2.) Any execution or attachment against the land of the bankrupt, executed in good faith by seizure before the date of the order of adjudication, if the person on whose account such execution or attachment was issued had not at the time of the same being so executed by seizure notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication:
- (3.) Any execution or attachment against the goods of any bankrupt, executed in good faith by seizure and sale before the date of the order of adjudication, if the person on whose account such execution or attachment was issued had not at the time of the same being executed, by seizure and sale notice of any act of bankruptcy committed by the bankrupt, and available against him for adjudication.

As to Discovery of Bankrupt's Property.

96. The Court may, on the application of the trustee, at any time after an order of adjudication has been made against a bankrupt, summon before it the bankrupt or his wife, or any person whatever known or suspected to have in his possession any of the estate or effects belonging to the bankrupt, or supposed to be indebted to the bankrupt, or any person whom the Court may deem capable of giving information respecting the bankrupt, his trade dealings or property, and the Court may require any such person to produce any documents in his custody or power relating to the bankrupt, his dealings or property; and if any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce such documents, having no lawful

Power of Court to summon persons before it suspected of having property of bankrupt.

§ 97. impediment made known to the Court at the time of its sitting, and allowed by it, the Court may, by warrant addressed as aforesaid, cause such person to be apprehended and brought up for examination.*

Examina-
tion of
parties by
Court.

97. The Court may examine upon oath, either by word of mouth or by written interrogatories, any

* This is substantially the same as sect. 120 of the Bankrupt Law Consolidation Act, 1849, under which so many private meetings have been held before the registrars—especially since the commencement of the Bankruptcy Act, 1861. These meetings have been most useful in the discovery of property, and in the investigation of the trade dealings and general transactions of the bankrupt. They have been equally useful in detecting many of the frauds sought to be perpetrated by means of trust deeds. The following cases will show some of the leading rules which have been laid down with respect to these inquiries :—

A person summoned is bound to come at the time appointed and wait until he can be examined. He may be imprisoned for refusing to be sworn, or for answering unsatisfactorily, or not producing the required documents, or not signing his examination. *Wright v. Maude*, 10 Mees. & W. 527.

A person summoned as a witness and suspected of having property of the bankrupt in his possession is entitled to his expenses in the first instance where it appears he is only servant or agent of the party suspected. *Re Bell*, 1 Bankr. & Insol. Rep. 168.

With regard to the power of the Court to compel a bankrupt to answer, although the answer may expose him to a criminal prosecution, the rule has been laid down by a majority of the Judges of the Queen's Bench as follows: "The result seems to be that a question cannot be put to a bankrupt which does not touch his trade dealings or estate, or the direct object of which is to show that he has committed a criminal act; yet that he cannot refuse to answer a question which does touch his trade dealings or estate—although the answer may seem to show that he has concealed his effects, or been guilty of any other offence connected with his bankruptcy." From this Mr. Justice Coleridge dissented on the ground *nemo tenetur se accusare*. See *Regina v. Scott*, 7 Cox, Crim. Cas. 164. The rule thus laid down has since been followed in the case of *The Queen v. Mary Robinson*, tried on the Northern Circuit two years ago.

As to the production of documents.—In *Ex parte Caldecott*, it was decided that under a commission against a bankrupt mortgagor, the mortgages of the bankrupt's property was compelled to produce his mortgage deed; Mont. 55. See also *Ex parte Beeston*, Mont. & M. 244. In *Ex parte Byrne in re Leighton*, a witness appealed from an order of the Commissioner, under the 100th sect. of the Bankrupt Law Consolidation Act,

person so brought before it in manner aforesaid concerning the bankrupt, his dealings or property. § 98. 99.

98. If any person on examination before the Court admit he is indebted to the bankrupt, the Court may, on the application of the trustee, order him to pay to the trustee, at such time and in such manner as to the Court seems expedient, the amount admitted, or any part thereof, either in full discharge of the whole amount in question or not, as the Court thinks fit, with or without costs of the examination.*

Order of Court for payment of amount admitted on examination.

99. Any person acting under warrant of the Court may seize any property of the bankrupt divisible amongst his creditors under this Act, and in the bankrupt's custody or possession, or in that of any other person, and with a view to such seizure may break open any house, building, or room of the bankrupt where the bankrupt is supposed to be, or any building or receptacle of the bankrupt where any

Seizure of property of bankrupt.

1849, directing him to produce the books, papers, &c. of his employers, against whom, during their absence from this country, a petition for adjudication of bankruptcy had been filed. This he declined to do without the authority of his principals, on the ground that, though as clerk he had the care and custody of the books, this was not such a "custody, possession, or power" as was contemplated by the Act of Parliament. Lord Chancellor Cranworth held "that the words, 'custody, possession, or power,' could not have a different construction put upon them from what the Court had already given them because they happened to be contained in an Act of Parliament. It appeared to him that the witness had not such a possession of his master's books as would justify an order being made upon him for their production; and if he were to order him to produce them *invito domino* he might expose him to an action at law;" 35 Law J. Rep. (N. S.) Bankr. 43.

* Sect. 123 of the Bankrupt Law Consolidation Act of 1849 required that the admission should be witnessed by the attorney of the person making such admission; but sect. 111 of the Bankruptcy Act, 1861, provided that the signature of the debtor, in the presence of an officer of the Court, who attested the same, should be sufficient.

The object of the enactments above mentioned was to supersede the necessity of many separate actions for the recovery of debts due to the estate, and it may be supposed that the same result will follow under the provision of the new Act, which, however, says nothing about attestation.

§ 100—3. of his property is supposed to be : and where the Court is satisfied that there is reason to believe that property of the bankrupt is concealed in a house or place not belonging to him, the Court may, if it thinks fit, grant a search warrant to any constable or prescribed officer of the Court, who may execute the same according to the tenor thereof.*

Joint and separate Estates.

Power to present petition against one partner.

100. Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present such petition against any one or more partners of such firm without including the others.

Power to dismiss petition against some respondents only.

101. Where there are more respondents than one to a petition, the Court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them.†

Property of partners to be vested in same trustee.

102. Where one member of a partnership has been adjudicated a bankrupt, any other petition for adjudication against a member of the same partnership shall be filed in or transferred to the Court in which the first-mentioned petition is in course of prosecution, and, unless the Court otherwise directs, the property of such last-mentioned member shall vest in the trustee appointed in respect of the property of the first-mentioned member of the partnership, and the Court may give such directions for amalgamating the proceedings in respect of the properties of the members of the same partnership as it thinks just. ‡

Joint creditor may prove for purpose of voting.

103. If one partner of a firm is adjudged bankrupt, any creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled to

* See sect. 109 of the Bankrupt Law Consolidation Act, 1849, which entrusted the duty of making these seizures, &c., to the messenger and his assistants.

† See sect. 97 of the Bankrupt Law Consolidation Act, 1849.

‡ See sect. 98 of the Bankrupt Law Consolidation Act, 1849.

vote thereat, but shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.* § 104—6.

104. Where joint and separate properties are being administered, dividends of the joint and separate properties shall, subject to any order to the contrary that may be made by the Court on the application of any person interested, be declared together; and the expenses of and incident to such dividends shall be fairly apportioned by the trustee between the joint and separate properties, regard being had to the work done for and the benefit received by each property.† Joint and separate dividends.

105. Where a partnership is adjudged bankrupt, the Court may authorise the trustee, with consent of the creditors, certified by a special resolution, to commence and prosecute any action or suit in the names of the trustee and of the bankrupt's partner; and any release by such partner of the debt or demand to which the action or suit relates shall be void; but notice of the application for authority to commence the action or suit shall be given to such partner, and he may show cause against it, and on his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action or suit, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the Court directs.‡ Suits by trustee and bankrupt's partners.

Evidence.

106. The registrar, or any other person presiding at a meeting of creditors under this Act, shall cause minutes to be kept and duly entered in a book of all Evidence of proceedings at meeting of creditors.

* This corresponds with sect. 140 of the Bankrupt Law Consolidation Act, 1849.

† This duty of fairly apportioning will throw upon the trustee great responsibility, unless, indeed, he acts under a resolution of the creditors or takes the direction of the Court.

‡ See sect. 152 of the Bankrupt Law Consolidation Act, 1849.

§ 107—9. resolutions and proceedings of such meeting, and any such minute as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every general meeting of the creditors in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had to have been duly passed and had.*

Evidence of proceedings in bankruptcy.

107. Any petition or copy of a petition in bankruptcy, any order or copy of an order made by any Court having jurisdiction in bankruptcy, any certificate or copy of a certificate made by any Court having jurisdiction in bankruptcy, any deed or copy of a deed of arrangement in bankruptcy, and any other instrument or copy of an instrument, affidavit, or document made or used in the course of any bankruptcy proceedings, or other proceedings had under this Act, may, if any such instrument as aforesaid or copy of an instrument appears to be sealed with the seal of any Court having jurisdiction, or purports to be signed by any judge having jurisdiction in bankruptcy under this Act, be receivable in evidence in all legal proceedings whatever.

Death of witness.

108. In case of the death of the bankrupt or his wife, or of a witness whose evidence has been received by any Court in any proceeding under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the Court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.†

Bankruptcy Courts to have seals.

109. Every Court having jurisdiction in bankruptcy under this Act shall have a seal describing

* It will be extremely convenient when a registrar presides at any meeting, that the proceedings should be under the seal of the Court. See the next following section.

† See sect. 242 of the Bankrupt Law Consolidation Act, 1849.

such Court in such manner as may be directed by order of the Lord Chancellor, and judicial notice shall be taken of such seal, and of the signature of the judge or registrar of any such Court, in all legal proceedings. § 110—3.

Miscellaneous.

110. Where a registrar under the authority of this Act attends at any place for the purpose of presiding at a meeting of creditors, or of receiving proofs, or of otherwise acting under this Act, his travelling and incidental expenses incurred in so doing, and those of any clerk or officer attending him, shall, after being settled by the Court, be paid out of the bankrupt's property, if sufficient, and otherwise shall be deemed part of the expenses of the Court. Expenses of registrar attending meetings, &c.

111. Any person to whom anything in action belonging to the bankrupt is assigned in pursuance of this Act may bring or defend any action or suit relating to such thing in action in his own name. Power of assignee to sue.

112. Where a bankrupt is a contractor in respect of any contract jointly with any other person or persons, such person or persons may sue or be sued in respect of such contract, without the joinder of the bankrupt. Saving as to joint contracts.

113. Every deed, conveyance, assignment, surrender, admission, or other assurance relating solely to freehold, leasehold, copyhold, or customary property, or to any mortgage, charge, or other incumbrance on, or any estate, right, or interest in any real or personal property which is part of the estate of any bankrupt, and which after the execution of such deed, conveyance, assignment, surrender, admission, or other assurance, either at law or in equity, is or remains the estate of the bankrupt or of the trustee under the bankruptcy, and every power of attorney, proxy paper, writ, order, certificate, affidavit, bond, or other instrument or writing relating solely to the property of any bankrupt, or to any proceeding Exemption of deeds, &c. from stamp-duty.

§ 114—5. under any bankruptcy, shall be exempt from stamp-duty (except in respect of fees under this Act).*

Computation of time.

114. Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of such limited time the same shall be taken as exclusive of the day of such date or of the happening of such event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest on the last day of such limited time according to such computation, unless such last day is a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter Week, or a day appointed for public fast, humiliation, or thanksgiving, or a day on which, in pursuance of a notification by the Lord Chancellor under this Act, the Court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

Where by this Act any act or proceeding is directed to be done or taken on a certain day, then if that day happens to be one of the days in this section specified, such act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

Returns by bankruptcy officer.

115. The registrars and other officers of the courts acting in bankruptcy shall make to the comptroller in bankruptcy such returns of the business of their respective courts and offices, at such times and in such manner and form as may be prescribed by the rules of Court, and from such returns the comptroller shall, in manner prescribed by the rules of Court,

* This is nearly the same as sect. 138 of the Bankrupt Law Consolidation Act, 1849, the difference being that the section of the new Act refers to fees for business done to be fixed by the Lord Chancellor, &c. (see sect. 68), whilst the former referred to stamp-duties specified in a particular schedule.

frame books (which shall be, under the regulations of the rules of Court, open for public information and searches), and also a general annual report to the Lord Chancellor, judicial and financial, respecting all matters within this Act, which report shall be laid before both Houses of Parliament.* § 116.

116. Where any dividends remain unclaimed for five years, then and in every such case the same shall be deemed vested in the Crown, and shall be disposed of as the Commissioners of Her Majesty's Treasury direct; provided, that at any time after such vesting the Lord Chancellor or any Court authorised by him may, by reason of the disability or absence beyond seas of the person entitled to the sum so vested, or for any other reason appearing to him sufficient, direct that the said sum shall be repaid out of money provided by Parliament.†

Forfeiture of dividends after five years non claim.

* The only differences between this section and sect. 67 of the Bankruptcy Act, 1861, are the opening of books for general inspection, and the substitution of the comptroller for the chief registrar in the preparation of the judicial and financial report to be annually laid before both Houses of Parliament. Similar duties are performed by the Accountant in Bankruptcy, in Scotland. See Bankruptcy (Scotland) Act, 19 & 20 Vict. c. 79, ss. 157 and 158.

† Is the period of five years to be computed from the declaration of the dividend, or from the close of the bankruptcy? Sect. 47 of the Act describes the circumstances under which the Court may declare the bankruptcy to be closed, and sect. 51 provides that at the meeting of creditors, summoned by the trustee with a view to his release, "he shall lay before the assembled creditors an account showing the manner in which the bankruptcy has been conducted, with a list of the unclaimed dividends, if any." It may be inferred that the time will be computed from the close of the bankruptcy.

The Courts of Justice Salaries and Funds Act, 1869, sects. 9, 10, provides:—

"9. As soon as may be after the commencement of this Act the Governor and Company of the Bank of England shall, upon an order of the Lord Chancellor to be made in that behalf, and without any draft from the accountant in bankruptcy, or act done by him, transfer to the account of the commissioners for the reduction of the national debt all sums of stock and cash which on the commencement of this Act may be standing in the books of the Bank of England in the name of the

§ 117—19.

Removal of
bankrupt
from trust-
teenship.

117. Where a bankrupt is a trustee within the Trustee Act, 1850, section thirty-two of that Act shall have effect so as to authorise the Court to appoint a new trustee in substitution for the bankrupt (whether voluntarily resigning or not), if it appears to the Court expedient to do so, and all provisions of that Act, and of any other Act relative thereto, shall have effect accordingly.*

Saving as
to debts
contracted
prior to
August,
1861.

118. No person, not being a trader, shall be adjudged a bankrupt in respect of a debt contracted before the date of the passing of the Bankruptcy Act, 1861.†

Construc-
tion of Acts
mentioning
commission
of bank-
ruptcy, &c.

119. Where in any Act of Parliament, instrument, or proceeding passed, executed, or taken before the

Accountant in Bankruptcy, to the credit of any of the accounts described in the second part of the second schedule to this Act, and all dividends which may then be, or thereafter become due, on such stock.

“10. After the commencement of this Act the consolidated fund shall be liable to make good the debts due in cash from the Court of Bankruptcy in respect of the estates of bankrupts, in manner stated in the first part of the second schedule to this Act, and the debts due in cash from the late Court for the relief of insolvent debtors in England in respect of estates of insolvent debtors, in manner stated in the first part of the same schedule, and the treasury shall in manner provided by this Act cause the sums required for the payment of such debts to be issued out of the consolidated fund.”

* Sect. 32 of the Trustee Act, 1850, 13 & 14 Vict. c. 60, enacts that “whenever it shall be expedient to appoint a new trustee or new trustees, and it shall be found inexpedient, difficult, or impracticable, so to do without the assistance of the Court of Chancery, it shall be lawful for the said Court of Chancery to make an order appointing a new trustee or new trustees, either in substitution for or in addition to any existing trustee or trustees.” Sect. 130 of the Bankrupt Law Consolidation Act, 1849, provided that where a bankrupt was a trustee, the Lord Chancellor, on petition, might order conveyance or assignment to another trustee. For the future all such applications will be made to the Court of Bankruptcy, on the petition of the person entitled in possession to the receipt of the rents, dividends, &c.; or the Court, in the exercise of its own discretion, may “appoint a new trustee in substitution for the bankrupt,” but no doubt in this case an application by the creditor’s trustee would be a necessary preliminary.

† See sect. 90 of the Bankruptcy Act, 1861.

commencement of this Act mention is made of a § 120—2.
 commission of bankruptcy or fiat in bankruptcy, the
 same shall be construed, with reference to the pro-
 ceedings under a petition for adjudication of bank-
 ruptcy, as if a commission of or a fiat in bankruptcy
 had been actually issued at the time of the presenta-
 tion of such petition.

PART V.

PERSONS HAVING PRIVILEGE OF PARLIAMENT.

120. If a person having privilege of Parliament commits an act of bankruptcy he may be dealt with under this Act in like manner as if he had not such privilege.

Privilege of
Parliament
not to pre-
vent adjudi-
cation in
bankruptcy.

121. If a person, being a member of the Commons House of Parliament, is adjudged bankrupt, he shall be and remain during one year from the date of the order of adjudication incapable of sitting and voting in that House, unless within that time either the order is annulled or the creditors who prove debts under the bankruptcy are fully paid or satisfied.

Vacating of
seat in
House of
Commons.

Provided that such debts (if any) as are disputed by the bankrupt shall be considered, for the purpose of this section, as paid or satisfied if within the time aforesaid he enters into a bond, in such sum and with such sureties as the Court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning such debts, together with any costs to be given in such proceedings.

122. If within the time aforesaid the order of adjudication is not annulled, and the debts of the bankrupt are not fully paid or satisfied as aforesaid, then the Court shall, immediately after the expiration of that time, certify the same to the Speaker of the House of Commons, and thereupon the seat of such member shall be vacant.

Certificate
of bank-
ruptcy to
be given by
the Court
to the
Speaker.

§ 1232-4.

Speaker to
issue new
writ,

123. Where the seat of a member so becomes vacant the Speaker during a recess of the House, whether by prorogation or by adjournment, shall forthwith, after receiving such certificate, cause notice thereof to be published in the London Gazette; and after the expiration of six days after such publication shall (unless the House has met before that day, or will meet on the day of the issue,) issue his warrant to the clerk of the Crown to make out a new writ for electing another member in the room of the member whose seat has so become vacant.

Provisions
of 24 Geo. 3,
sess. 2, c. 26,
extended
to case of
bankruptcy.

124. The powers of the Act of the twenty-fourth year of the reign of King George the Third, chapter twenty-six, "to repeal so much of two Acts made in the tenth and fifteenth years of the reign of his present Majesty as authorises the Speaker of the House of Commons to issue his warrant to the clerk of the Crown for making out writs for the election of members to serve in Parliament in the manner therein mentioned: and for substituting other provisions for the like purposes," so far as such powers enable the Speaker to nominate and appoint other persons, being members of the House of Commons, to issue warrants for the making out of new writs during the vacancy of the office of Speaker, or during his absence out of the realm, shall extend to enable him to make the like nomination and appointment for issuing warrants, under the like circumstances and conditions, for the election of a member in the room of any bankrupt member whose seat becomes vacant under this Act.*

* The enactments contained in Part V. especially the words used in sect. 120, set at rest the question which has recently been much discussed—whether a peer, having privilege of Parliament, not being a trader, is liable to the bankrupt laws. See sect. 77 of the Bankrupt Law Consolidation Act, 1849, and sect. 69 of the Bankruptcy Act, 1861, also the case of *Morris v. The Duke of Newcastle*, before Lord Justice Gifford, which on one point is still pending.

In reference to sect. 121, it may be remarked that the 52 Geo. 3, c. 144, enacts that whenever a member of the House of Commons shall be declared a bankrupt, he shall be for twelve

PART VI.

LIQUIDATION BY ARRANGEMENT.

Regulations.

125. The following regulations shall be made with respect to the liquidation by arrangement of the affairs of the debtor:

Regulations as to liquidation by arrangement.

- (1.) A debtor unable to pay his debts may summon a general meeting of his creditors, and such meeting may, by a special resolution as defined by this Act, declare that the affairs of the debtor are to be liquidated by arrangement and not in bankruptcy, and may at that or some subsequent meeting, held at an interval of not more than a week, appoint a trustee, with or without a committee of inspection.
- (2.) All the provisions of this Act relating to a first meeting of creditors, and to subsequent meetings of creditors in the case of a bankruptcy, including the description of creditors entitled to vote at such meetings, and the

months incapable of sitting and voting, unless the commission be superseded or the creditors paid or satisfied to the full amount of their debts. Sir Erskine May in his valuable Parliamentary Practice, p. 37, adds, "though no commission of bankruptcy is now issued, it is provided by the Bankrupt Law Consolidation Act, 1849, s. 5, that where mention is made in any Act of a 'commission of bankruptcy,' such Act is to be construed with reference to the proceedings under a petition for adjudication of bankruptcy (see sect. 119 of the Bankruptcy Act, 1869). As no penalty attaches to a bankrupt for sitting and voting, and as no official notice of his bankruptcy is required to be given to the speaker for twelve months, he may sit with impunity in the meantime, unless the House take notice of his sitting and order him to withdraw." See *Townsend's Case*, 15th June, 1858 (113 Commons J. 229), in which that person who had been adjudged bankrupt continued to sit for four months after his bankruptcy, and to vote in several divisions, the House ordered him to withdraw until he had annulled his bankruptcy or paid his creditors in full; and disallowed the votes which he had given during that period.

§ 125.

debts in respect of which they are entitled to vote, shall apply respectively to the first meeting of creditors, and to subsequent meetings of creditors, for the purposes of this section, subject to the following modifications:

- (a.) That every such meeting shall be presided over by such chairman as the meeting may elect; and
- (b.) That no creditor shall be entitled to vote until he has proved by a statutory declaration a debt provable in bankruptcy to be due to him, and the amount of such debt, with any prescribed particulars; and any person wilfully making a false declaration in relation to such debt shall be guilty of a misdemeanor.
- (3.) The debtor, unless prevented by sickness or other cause satisfactory to such meeting, shall be present at the meeting at which the special resolution is passed, and shall answer any inquiries made of him, and he, or if he is so prevented from being at such meeting some one on his behalf shall produce to the meeting a statement showing the whole of his assets and debts, and the names and addresses of the creditors to whom his debts are due.
- (4.) The special resolution, together with the statement of the assets and debts of the debtor, and the name of the trustee appointed, and of the members, if any, of the committee of inspection, shall be presented to the registrar, and it shall be his duty to inquire whether such resolution has been passed in manner directed by this section, but if satisfied that it was so passed, and that a trustee has been appointed with or without a committee of inspection, he shall forthwith register the resolution and the statement of the assets and debts of the debtor, and such resolution and statement shall be open for inspection on the prescribed conditions, and

the liquidation by arrangement shall be deemed to have commenced as from the date of the appointment of the trustee. § 125.

- (5.) All such property of the debtor as would, if he were made bankrupt, be divisible amongst his creditors shall, from and after the date of the appointment of a trustee, vest in such trustee under a liquidation by arrangement, and be divisible amongst the creditors, and all such settlements, conveyances, transfers, charges, payments, obligations, and proceedings as would be void against the trustee in the case of a bankruptcy shall be void against the trustee in the case of liquidation by arrangement.
- (6.) The certificate of the registrar in respect of the appointment of any trustee in the case of a liquidation by arrangement shall be of the same effect as a certificate of the Court to the like effect in the case of a bankruptcy.
- (7.) The trustee under a liquidation shall have the same powers, and perform the same duties, as a trustee under a bankruptcy, and the property of the debtor shall be distributed in the same manner as in a bankruptcy; and with the modification hereinafter mentioned all the provisions of this Act shall, so far as the same are applicable, apply to the case of a liquidation by arrangement in the same manner as if the word "bankrupt" included a debtor whose affairs are under liquidation, and the word "bankruptcy" included liquidation by arrangement; and in construing such provisions the appointment of a trustee under a liquidation shall, according to circumstances, be deemed to be equivalent to and a substitute for the presentation of a petition in bankruptcy, or the service of such petition or an order of adjudication in bankruptcy.

§ 125.

- (8.) The creditors at their first or any general meeting may prescribe the bank into which the trustee is to pay any monies received by him, and the sum which he may retain in his hands.
- (9.) The provisions of this Act with respect to the close of the bankruptcy, discharge of a bankrupt, to the release of the trustee, and to the audit of accounts by the comptroller shall not apply in the case of a debtor whose affairs are under liquidation by arrangement; but the close of the liquidation may be fixed, and the discharge of the debtor and the release of the trustee may be granted by a special resolution of the creditors in general meeting, and the accounts may be audited in pursuance of such resolution, at such time and in such manner and upon such terms and conditions as the creditors think fit.
- (10.) The trustee shall report to the registrar the discharge of the debtor, and a certificate of such discharge given by the registrar shall have the same effect as an order of discharge given to a bankrupt under this Act.
- (11.) Rules of Court may be made in relation to proceedings on the occasion of liquidation by arrangement in the same manner and to the same extent and of the same authority as in respect of proceedings in bankruptcy.
- (12.) If it appear to the Court on satisfactory evidence that the liquidation by arrangement cannot, in consequence of legal difficulties, or of there being no trustee for the time being, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, the Court may adjudge the debtor a bankrupt, and proceedings may be had accordingly.

- (13.) Where no committee of inspection is appointed the trustee may act on his own discretion in cases where he would otherwise have been bound to refer to such committee. § 126.
- (14.) In calculating a majority on a special resolution for the purposes of this section, creditors whose debts amount to sums not exceeding ten pounds shall be reckoned in the majority in value, but not in the majority in number.
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PART VII.

COMPOSITION WITH CREDITORS.

Regulations.

126. The creditors of a debtor unable to pay his debts may, without any proceedings in bankruptcy, by an extraordinary resolution, resolve that a composition shall be accepted in satisfaction of the debts due to them from the debtor.

*Regulations
as to com-
position by
creditors.*

An extraordinary resolution of creditors shall be a resolution which has been passed by a majority in number and three fourths in value of the creditors of the debtor, assembled at a general meeting to be held in the manner prescribed, of which notice has been given in the prescribed manner, and has been confirmed by a majority in number and value of the creditors assembled at a subsequent general meeting, of which notice has been given in the prescribed manner, and held at an interval of not less than seven days nor more than fourteen days from the date of the meeting at which such resolution was first passed.

In calculating a majority for the purposes of a composition under this section, creditors whose debts amount to sums not exceeding ten pounds shall be

§ 126. reckoned in the majority in value, but not in the majority in number, and the value of the debts of secured creditors shall, as nearly as circumstances admit, be estimated in the same way, and the same description of creditors shall be entitled to vote at such general meetings as in bankruptcy.

The debtor, unless prevented by sickness or other cause satisfactory to such meetings, shall be present at both the meetings at which the extraordinary resolution is passed, and shall answer any inquiries made of him, and he, or if he is so prevented from being at such meetings some one on his behalf, shall produce to the meetings a statement showing the whole of his assets and debts, and the names and addresses of the creditors to whom such debts respectively are due.

The extraordinary resolution, together with the statement of the debtor as to his assets and debts shall be presented to the registrar, and it shall be his duty to inquire whether such resolution has been passed in manner directed by this section, and if satisfied that it has been so passed he shall forthwith register the resolution and statement of assets and debts, but until such registration has taken place such resolution shall be of no validity; and any creditor of the debtor may inspect such statement at prescribed times, and on payment of such fee, if any, as may be prescribed.

The creditors may, by an extraordinary resolution, add to or vary the provisions of any composition previously accepted by them, without prejudice to any persons taking interests under such provisions who do not assent to such addition or variation; and any such extraordinary resolution shall be presented to the registrar in the same manner and with the same consequences as the extraordinary resolution by which the composition was accepted in the first instance.

The provisions of a composition accepted by an extraordinary resolution in pursuance of this section shall be binding on all the creditors whose names

and addresses, and the amount of the debts due to whom, are shown in the statement of the debtor, produced to the meetings at which the resolution has passed, but shall not affect or prejudice the rights of any other creditors. § 126.

Where a debt arises on a bill of exchange or promissory note, if the debtor is ignorant of the holder of any such bill of exchange or promissory note, he shall be required to state the amount of such bill or note, the date on which it falls due, the name of the acceptor or person to whom it is payable, and any other particulars within his knowledge respecting the same and the insertion of such particulars shall be deemed a sufficient description of the creditor of the debtor in respect of such debt, and any mistake made inadvertently by a debtor in the statement of his debts may be corrected after the prescribed notice has been given, with the consent of a general meeting of his creditors.

The provisions of any composition made in pursuance of this section may be enforced by the Court on a motion made in a summary manner by any person interested, and any disobedience of the order of the Court made on such motion shall be deemed to be a contempt of Court.

Rules of Court may be made in relation to proceedings on the occasion of the acceptance of a composition by an extraordinary resolution of creditors in the same manner and to the same extent and of the same authority as in respect of proceedings in bankruptcy.

If it appear to the Court on satisfactory evidence that a composition under this section cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, the Court may adjudge the debtor a bankrupt, and proceedings may be had accordingly.*

* These two chapters relating to liquidation by arrangement and composition with creditors are the mere outlines of a

§ 127—8. 127. The registration by the registrar of a special resolution of the creditors on the occasion of a liquidation by arrangement under Part Six of this Act, or of an extraordinary resolution of the creditors on the occasion of a composition under the Seventh Part of this Act, shall, in the absence of fraud, be conclusive evidence that such resolutions respectively were duly passed and all the requisitions of this Act in respect of such resolutions complied with.

Registration of resolutions of creditors conclusive in certain cases.

PART VIII.

TEMPORARY PROVISIONS.

Bankruptcy Courts.

Commissioners of London Bankruptcy Court to cease to hold offices.

128. Such one of the present Commissioners of the London Bankruptcy Court as may be chosen by Her Majesty shall be the first Chief Judge in the London Bankruptcy Court as constituted under this Act, and shall, as to tenure of office, salary, pension, and all other privileges except his title, continue in the same position in all respects as if his office had

system, the details of which had to be filled up by general rules and orders. The "General Rules for regulating the Practice and Procedure of the London Bankruptcy Court and of the County Courts," signed by the Lord Chancellor and the Chief Judge, and bearing date 1st January 1870, contain sixty-three rules applicable to liquidations and compositions, numbered from 252 to 315, both inclusive. It may be expected that the complicated business of these arrangements will be conducted generally in the offices of the solicitors. The provision which requires the proceeding to be commenced by the petition of the debtor verified by affidavit—and that which enables the Court or the creditors to appoint a receiver—will be found very useful. Sect. 126 contains this paragraph, that "where a debt arises on a bill of exchange or promissory note, if the debtor is ignorant of the holder of any such bill of exchange or promissory note, he shall be required to state the amount of such bill or note," &c. There is, however, no corresponding paragraph in sect. 125.

not been abolished by this Act; but, save as aforesaid, from and after the commencement of this Act the present Commissioners of the London Bankruptcy Court shall cease to hold their offices. § 129.

129. The chief registrar, registrars, accountant in bankruptcy, taxing masters, official assignees, messengers, and all other officers holding offices or employed in the existing London Bankruptcy Court, herein called the Old London Bankruptcy, at the commencement of this Act, shall, unless the Lord Chancellor otherwise directs, be attached to the London Bankruptcy Court as constituted under this Act, herein called the New London Bankruptcy Court. The officers so attached shall have the same relative rank, hold their offices by the same tenure and upon the same terms and conditions, and receive the same salaries as heretofore. The Lord Chancellor may by order make provision for winding up such portion of the business pending in the said old Bankruptcy Court as cannot conveniently be transferred to the new Bankruptcy Court, and for transferring to such last-mentioned Court any business capable of being conveniently transferred, and every officer attached to such last-mentioned Court shall conform to any order so made by the Lord Chancellor. The Lord Chancellor may by order distribute the business to be performed in the said new Bankruptcy Court amongst the several officers attached thereto in such manner as he may think just, and such officers shall perform such duties in relation to such business as may be directed by the Lord Chancellor, with this qualification, that the duties required to be performed by them shall be the same or duties analogous to those which they have hitherto performed in the old Bankruptcy Court. The Lord Chancellor may at any time by order release from the performance of any duties in the new Bankruptcy Court any officer of the old Bankruptcy Court whose services he may deem unnecessary, and the office held by such person shall be deemed to be abolished unless it be an office required to be con-

Transfer of
officers of
existing
Court to
new Court
of Bank-
ruptcy.

§ 130. continued in pursuance of the provisions of this Act relating to the constitution of the new Bankruptcy Court. Any person so released shall, whether his office be altogether abolished or not, be entitled to compensation in the same manner in all respects as if his office had been abolished.*

Abolition of
Country
District
Courts of
Bank-
ruptcy.

130. From and after the commencement of this Act the Country District Courts of Bankruptcy shall be abolished, and the commissioners, registrars, official assignees, messengers, ushers, clerks, and officers of the said Courts respectively shall cease to hold their offices.

Such part of the business pending in any Country District Court of Bankruptcy as the Lord Chancellor

* The following order has been made by the Lord Chancellor:—

“I, the Right Honourable William Page, Baron Hatherley, Lord High Chancellor of Great Britain, do, by virtue of the powers vested in me by the Bankruptcy Act, 1869, and of every other power vested in me, hereby order that all the proceedings in, and business of the bankruptcies, and all other matters pending in the old London Bankruptcy Court on the Thirty-first day of December, One Thousand eight hundred and sixty-nine, shall be transferred to the New London Bankruptcy Court.

“And I do further order that the chief registrar, registrars, accountant in bankruptcy, taxing masters, official assignees, and all other officers holding offices or employed in the old London Bankruptcy Court shall, until further order, perform the same or the like duties in relation to the business to be performed in the New London Bankruptcy Court as they have respectively performed in the old London Bankruptcy Court; and that the said business shall be distributed amongst the before-mentioned officers in the manner in which the business of the old London Bankruptcy Court was distributed amongst them.

“Given under my hand this 1st day of January, 1870.

“HATHERLEY, C.”

By the Courts of Justice Salaries and Funds Act, 1869, sect. 14, “officer” is defined to be “all officers, clerks, messengers, and persons who are mentioned in the second parts of the third and fourth schedules to this Act, or are for the time being employed in the said Courts of Chancery, Bankruptcy, and Admiralty, or any of them, or the offices connected therewith. The officers of the Court of Bankruptcy, specified in the schedule indicated, are the chief registrar, registrar, accountant, taxing master, official assignees, clerks, ushers, messengers, and other officers and clerks.”

thinks fit shall be disposed of by the registrar of that Court, (who shall for that purpose continue to have and discharge all his powers and authorities, rights and duties,) and the residue of that business shall be transferred to the London Bankruptcy Court, or to such County Court or County Courts as the Lord Chancellor, by order before or after its abolition, thinks fit to direct; but, subject, as aforesaid, the office of any registrar in such Country District Court shall be abolished. § 131.

All books, papers, documents, and money in the custody or control of any such commissioners, registrars, official assignees, messengers, ushers, clerks, and officers, as such, shall be transferred to such Courts or persons as the Lord Chancellor may direct. The Lord Chancellor shall also by order declare the person or persons in whom any property vested in any official assignee or other officer as such of any Country District Court hereby abolished is to vest, and such property shall vest accordingly.

131. The Commissioners of Her Majesty's Treasury may, on the petition of any person whose office or employment is abolished by or under this Act, on the commencement of this Act or on any other event, inquire whether any, and, if any, what compensation ought to be made to the petitioner, regard being had to the conditions on which his appointment was made, the nature of his office or employment, and the duration of his service; and if they think that his claim to compensation is established, may award to him, out of monies to be provided by Parliament, such compensation, by annuity or otherwise, as under the circumstances of the case they think just and reasonable; provided that when any such person held his office during good behaviour, or during good behaviour subject only to removal by the Lord Chancellor by order, for some sufficient reason to be stated in such order, the Lord Chancellor may, with the approval of the Commissioners of the Treasury, award under special circumstances an amount equal to the salary of any such person; and in every other case

Compensation to officers.

§ 132. the sum awarded shall not be less than two-thirds of the salary of such person.*

Persons to
be selected
whose office
is abolished
by Act.

132. Every person appointed to any office or employment created by this Act shall in the first instance be selected from the persons whose office or employment is abolished by this Act, unless, in the opinion of the Lord Chancellor, none of the last-mentioned persons are fit for such office or employment.†

* The Courts of Justice Salaries and Funds Act, 1869, sect. 13, provides :

"All compensations, pensions, annuities, allowances and salaries, payable under this section, shall be deemed to accrue from day to day, but shall be payable on such days as the Treasury may from time to time appoint.

"If the monies provided by Parliament are at any time insufficient for the purposes mentioned in this section the consolidated fund shall be liable to make good such deficiency to the same extent to which the stock and cash, and the interest of such stock, transferred under this Act, or the income thereof, are liable at the commencement of this Act.

"Nothing in this Act shall deprive any person who at the commencement of this Act enjoys any compensation, pension, retiring annuity, superannuation allowance, or salary, mentioned in this section, of his right to continue to receive the same compensation, pension, retiring annuity, superannuation allowance, or salary, or of any right he may have to receive any progressive or prospective increase of salary or to obtain any promotion or succession, or any pension, retiring annuity, or superannuation allowance, and nothing in this Act shall affect or diminish any such right."

As to this and other points, sect. 29 of the same Act directs :

"The provisions of this Act, with respect to the Court of Bankruptcy shall be subject to any provisions made with respect to that Court by any Act passed in the present session."

† The Courts of Justice Salaries and Funds Act, 1869, sect. 14, provides :

14. The Treasury may from time to time, by order made with the concurrence of the Lord Chancellor, and also with the concurrence of the Master of the Rolls in the case of officers who are appointed or whose salaries are fixed by the Master of the Rolls, either solely or jointly with the Lord Chancellor, and with the concurrence of the Judge of the Court of Admiralty in the case of the officers of that Court, increase or diminish the number of officers in the Courts of Chancery, Bankruptcy, and Admiralty, and the amounts of the salaries of such officers, and determine the conditions on which they are to hold their offices,

133. When any subsequent vacancy occurs in any office or employment created by this Act, and such vacancy is not filled up by the appointment of a person in the receipt of compensation under this Act, no permanent appointment shall be made until notice of the vacancy has been given to the Treasury, and until the Lord Chancellor has determined that no person in receipt of compensation under this Act is fit for such office or employment.

§ 133—4.
Subsequent appointment to be notified to the Treasury.

134. The Lord Chancellor may nominate or appoint any commissioner whose office has been abolished under this Act to some other judicial office of equal or greater salary for which he may be deemed fit by the Lord Chancellor, and to which he is entitled to nominate or appoint, and may nominate or appoint any other person whose office or employment has been abolished by this Act, whom he may deem fit to fill a vacancy in any office or employment created by this Act, of equal or greater salary, to which he is entitled to nominate or appoint, provided that the person appointed be in the receipt of

Nominations to be by Lord Chancellor.

and regulate the expenses and contingencies incurred in respect of the said courts or the officers belonging thereto.

Any officer appointed after the commencement of this Act shall take his office subject to any order that may thereafter be made under this section in relation to the abolition or modification of his office, but no order made under this section shall, without his consent, apply to any officer holding office at the date of the commencement of this Act, and when the conditions on which any officer is to hold his office, and the salary to be paid to him, have been determined by any order under this section for the time being in force, no subsequent order under this section shall apply to such officer without his consent.

Any order made under this section shall be laid before both Houses of Parliament within fourteen days after it is made, if Parliament be then sitting, or if not, within fourteen days after the commencement of the next session. It shall also be published in the London Gazette, and when so published shall be of the same force as if it were enacted in this Act, but subject to being varied or repealed from time to time by other orders made in like manner under this Act, and any enactment inconsistent with such order shall be repealed from and after the date of any such publication.

§ 135—6. compensation or superannuation allowance equal to the amount of his salary at the time of the abolition of his office; and if the commissioner or other person so nominated or appointed declines to accept such office or employment, or neglects to execute the duties thereof satisfactorily, being in a competent state of health, he shall forfeit his right to the compensation or superannuation allowance which may have been granted to him, or which he might otherwise be entitled to receive, unless he shall satisfy the Lord Chancellor that the office is one not suitable to his position, regard being had to his former office.

Acceptance
of public
employment
by annui-
tants.

135. If any person to whom a compensation annuity is granted under this Act accepts any public employment, he shall, during the continuance of that employment, receive only so much (if any) of that annuity as, with the remuneration of that employment, will amount to a sum not exceeding the salary or emoluments in respect of the loss whereof the annuity was awarded, and if the remuneration of that employment is equal to or greater than such salary or emoluments the annuity shall be suspended so long as he received that remuneration.

Superannu-
ation of re-
gistrars, &c.

136. The registrars, clerks, and other persons holding their offices, at the passing of this Act who may be continued in their offices, shall, on their retirement therefrom, be allowed such superannuation as they would have been entitled to receive if this Act had not been passed, and they had continued in their offices under the existing Acts; and any other registrar, officer, or person appointed to any office under this Act may be allowed superannuation in pursuance of the provisions of the Superannuation Act of 1859.

SCHEDULES.

SCHEDULE I.

DESCRIPTION OF TRADERS.

Alum makers, apothecaries, auctioneers, bankers, bleachers, brokers, brickmakers, builders, calenderers, carpenters, carriers, cattle or sheep salesmen, coach proprietors, cow-keepers, dyers, fullers, keepers of inns, taverns, hotels, or coffee houses, limeburners, livery stable keepers, market gardeners, millers, packers, printers, sharebrokers, ship-owners, shipwrights, stockbrokers, stockjobbers, victuallers, warehousemen, wharfingers, persons using the trade or profession of a scrivener, receiving other men's monies or estates into their trust or custody, persons insuring ships or their freight or other matters against perils of the sea, persons using the trade of merchandise by way of bargaining, exchange, bartering, commission, consignment, or otherwise, in gross or by retail, and persons who, either for themselves or as agents or factors for others, seek their living by buying and selling or buying and letting for hire goods or commodities, or by the workmanship or the conversion of goods or commodities; but a farmer, grazier, common labourer, or workman for hire shall not, nor shall a member of any partnership, association, or company which cannot be adjudged bankrupt under this Act, be deemed as such a trader for the purposes of this Act.*

SCHEDULE II.

LIST OF METROPOLITAN COUNTY COURTS.

The Bloomsbury County Court of Middlesex.
The Bow County Court of Middlesex.
The Brompton County Court of Middlesex.
The Clerkenwell County Court of Middlesex.
The Lambeth County Court of Surrey.
The Marylebone County Court of Middlesex.
The Shoreditch County Court of Middlesex.
The Southwark County Court of Surrey.
The Westminster County Court of Middlesex.
The Whitechapel County Court of Middlesex.

* This only differs in the description of traders from sect. 65 of the Bankrupt Law Consolidation Act, 1849, by the addition of "sharebrokers, stockbrokers, and stockjobbers."

BANKRUPTCY REPEAL AND INSOLVENT COURT ACT.

32 & 33 VICT., CHAP. 83.

An Act to provide for the winding-up of the business of the late Court for the Relief of Insolvent Debtors in England, and to repeal Enactments relating to Insolvency, Bankruptcy, Imprisonment for Debt, and matters connected therewith.

[9th August, 1869.]

WHEREAS it is expedient to provide for the winding-up of the business of the late Court for the Relief of Insolvent Debtors in England : § 1, 2.

And whereas the enactments described in the schedule to this Act relate to insolvency or bankruptcy, or imprisonment for debt, or to matters connected therewith, and the same either have ceased to be in force, or on the commencement of divers Acts of the present session will cease to be in force, and it is therefore expedient that the same be expressly repealed:

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited as The Bankruptcy Repeal and Insolvent Court Act, 1869. Short title.
2. This Act shall not come into operation until the day on which The Bankruptcy Act, 1869, comes into operation, which day is hereinafter referred to as the commencement of this Act. Commence-
ment of Act.

§ 3-6.

PART I.

Temporary Provisions respecting Insolvent Debtors.

Construc-
tion of part
of Act.

3. Words and expressions defined or explained in The Bankruptcy Act, 1869, shall have the same meaning in this part of this Act.

Jurisdiction
of Insolvent
Debtors
Court and
of county
courts.

4. The Court of Bankruptcy in London shall have all the jurisdiction, powers, and authorities possessed at the commencement of The Bankruptcy Act, 1861, by the late Court for the relief of insolvent debtors in England (in this part of this Act called the late Insolvent Debtors Court), in relation to all matters then pending in that Court, and not completed at the commencement of this Act, and all matters at the commencement of this Act pending in that court or in the county courts under the Acts for the relief of insolvent debtors shall (subject to the express provisions of this part of this Act) be continued and completed therein as if this Act had not been passed.

General
rules to be
made by
court.

5. Rules of court may be made in manner provided by The Bankruptcy Act, 1869, for the effectual execution of this part of this Act and of the objects thereof, and the regulation of the practice and procedure in proceedings thereunder, and the provisions of The Bankruptcy Act, 1869, with respect to the making of rules of court shall apply accordingly.

Until rules have been made in pursuance of this section, and, so far as such rules do not extend, the principles, practice, and rules on which courts having jurisdiction in insolvency have heretofore acted in dealing with insolvency proceedings shall be observed.

Delegation
of authority
by court.

6. The judge of any court exercising jurisdiction under this part of this Act may delegate to the registrar or to any other officer of his court such of the powers vested in him under this part of this Act as are allowed by the rules of court to be so delegated.

7. Where a bankrupt has before adjudication of bankruptcy taken the benefit of any Act for the relief of insolvent debtors, nothing in The Bankruptcy Act, 1869, shall interfere with the operation of the Act of which he so took the benefit, in respect of the liability of property acquired after his discharge under that Act, if and so far as any such liability would have existed if The Bankruptcy Act, 1869, had not been passed.

§ 7—9.

Saving for liability under Insolvent Debtors Acts.

8. The person at the passing of this Act holding the office of provisional and official assignee of the estates and effects of insolvent debtors shall be deemed to have been duly appointed, and shall (subject to the provisions of this Act) continue, on the same terms on which he then holds that office, to perform the duties imposed on him by or under The Bankruptcy Act, 1861, or any other Act. If a vacancy occurs in that office at any time after the passing of this Act, the Lord Chancellor may appoint a fit person to perform the remaining duties thereof, who shall receive such remuneration as the Lord Chancellor, with the concurrence of the commissioners of her Majesty's Treasury, from time to time directs, and the person so appointed shall have all the powers and authorities of the person who is at the passing of this Act, the provisional and official assignee; and all estates, rights, and effects vested at the time of the vacancy in the provisional and official assignee shall, by virtue of such appointment, become vested in the person so appointed, and the like appointment on a vacancy shall be made and the like vesting shall have effect from time to time as occasion requires.

Provision for duties of provisional assignee.

9. The provisional and official assignee of the estates and effects of insolvent debtors and the person for the time being appointed to perform the remaining duties of that office shall also be styled the receiver of the late Insolvent Debtors Court, and as such he shall act in such manner in relation to the receipt and custody of money paid to him or into court in respect of the estates of insolvent

Receiver of Insolvent Debtors Court.

§ 10—12. debtors, and to the payment thereof out of court, and give such security, as may be from time to time prescribed by the rules of court.

The accounts of the provisional and official assignee and receiver may be audited by such person and in such manner and at such times as may be prescribed by the rules of court.

Clerks and
officers of
Insolvent
Debtors
Court.

10. The taxing master, clerks, and persons (other than the provisional and official assignee) at the commencement of this Act discharging duties connected with the late Insolvent Debtors Court shall continue to discharge the same duties as at the commencement of this Act; and every such clerk and person appointed before the commencement of The Bankruptcy Act, 1861, shall hold his appointment during good behaviour, but may be removed by the Lord Chancellor, by order, for some sufficient reason therein stated. If a vacancy happens in the place of any clerk or person to whom this section relates, the Lord Chancellor may, if he thinks fit, with the concurrence of the Commissioners of her Majesty's Treasury, employ a fit person to discharge the duties of that place; and in the event of the duties of any such first-named clerk or person ceasing, he shall, if the Lord Chancellor thinks fit, be appointed to discharge similar duties in the Court of Bankruptcy in London in case his services are required in that behalf, and if not so appointed his office shall be abolished, and he shall be awarded the same compensation as if his office had been abolished by the Bankruptcy Act, 1869.

Salary of
provisional
assignee.

11. The person who is at the passing of this Act the provisional and official assignee shall as long as he remains in office receive the same salary as at the commencement of this Act.

Salaries of
clerks and
officers of
court.

12. The clerks and persons (other than the provisional and official assignee) who under this Act discharge duties connected with the late Insolvent Debtors Court shall as long as they discharge such duties continue to receive the same salaries as at the commencement of this Act.

13. Nothing in The Bankruptcy Act, 1869, or this Act shall deprive any person holding at the commencement of this Act any office or place in the late Insolvent Debtors Court of any benefit to which at or after the commencement of this Act he is or may become entitled by virtue of any Act relating to superannuation allowances; and the service of any such person in the Court of Bankruptcy in London shall, in relation to superannuation allowance, retiring pension, and compensation annuity on abolition of office, be equivalent to service in the late Insolvent Debtors Court; and nothing in this part of this Act shall prevent any person from being deemed an officer of the Court of Bankruptcy who would have been deemed such if this part of this Act had not been enacted.

§ 13—15.

Saving for right to superannuation allowance, &c.

14. For the purpose of winding up and terminating as quickly as possible all matters at the commencement of this Act pending in the late Insolvent Debtors Court and in county courts under the Acts for the relief of insolvent debtors, the judges of the courts in which the same are pending shall from time to time order the provisional and official assignee of the estates and effects of insolvent debtors, or the person for the time being appointed to perform the remaining duties of that office, to institute and carry on such proceedings, either at law or in equity, as the judges direct for compelling creditors, assignees, and others to account for and pay to the receiver of the late Insolvent Debtors Court assets belonging to the estates of insolvent debtors, and those judges shall have for that purpose all such powers and authorities as were vested in the late Insolvent Debtors Court in cases where the Court was dissatisfied with the account of an assignee.

Winding up of insolvency business.

1 & 2 Vict. c. 110.

15. For the purpose of winding up and terminating all matters which at the commencement of this Act may be pending in the late Insolvent Debtors Court and in county courts under the Acts for the relief of insolvent debtors, the following provisions shall have effect; namely,

Termination of insolvency cases.

§ 15.

- (1.) Every insolvency shall at the expiration of twelve months from the commencement of this Act or at the expiration of twenty years from the date of the filing of the petition (whichever last happens) be closed:
- (2.) Before the expiration of the said twelve months or twenty years, as the case may be, any assignee, creditor, or other person interested in an insolvency may apply in the prescribed manner to the court in which it is pending to have the close of such insolvency postponed, and the judge of such court, on sufficient cause being shown for the postponement, may, subject to the rules of court, postpone such close for such period and on such terms and conditions (if any) as he thinks just:
- (3.) If the close is postponed the same proceedings may be had before the expiration of the period of postponement as is provided by this section before the expiration of the said twenty years:
- (4.) If sufficient cause for postponement is not shown before the expiration of the said twelve months, or twenty years, or the period of postponement (as the case may be), or of such further period as may, subject to the rules of court, be allowed for an application by the court in which the case is pending, the insolvency shall at the expiration of the said times be ipso facto closed, and thereupon the insolvent or the heirs, devisees, or personal representatives of the insolvent (if he is dead) shall be in the same position and have the same rights in all respects as if the insolvent had been bankrupt, and had at the date of the closing obtained his discharge under The Bankruptcy Act, 1869:
- (5.) The term insolvency in this section includes

any proceeding taken to obtain protection under the Act of the session of the fifth and sixth years of her Majesty's reign, chapter one hundred and sixteen. § 16—18.

16. The powers and authorities originally conferred by this part of this Act on the Court of Bankruptcy in London and the county courts shall be deemed to be in addition to and not in abridgment of or substitution for the powers and authorities vested in them under the Acts for the relief of insolvent debtors. Authorities to be cumulative.

17. The receiver of the late Insolvent Debtors Court shall keep an account to be intituled "The Account of the late Insolvent Debtors Court," and there shall be transferred to that account the account kept at the passing of this Act by the accountant in bankruptcy, intituled The purposes of the twenty-sixth section of The Bankruptcy Act, 1861, and so much of the accounts kept by the said accountant, intituled respectively The General Account of Bankrupts estates and The Unclaimed Dividend Account, as relates to insolvent debtors, and so much of the cash and securities left standing in the name of the said accountant under the provisions of any Act passed in the present session respecting the funds of the Court of Bankruptcy as represents part of the sums standing to the credit of the accounts so transferred shall be transferred into the name of the receiver of the late Insolvent Debtors Court to the account of the late Insolvent Debtors Court, and all the provisions of any such Act relating to the accountant in bankruptcy shall extend, mutatis mutandis, to the receiver of the late Insolvent Debtors Court. Account of Insolvent Debtors Court.

18. The sums for the time being standing to the account of the late Insolvent Debtors Court shall be subject to the orders of the Court of Bankruptcy in London for payment of any dividend, or distribution of any money, in the matter to which any part thereof originally belonged, and for payment of any money paid into the late Insolvent Debtors Court and ap- Application of Insolvent Debtors Court account.

§ 19, 20. pearing to be unaccounted for or not duly appropriated, and for indemnifying every existing and past provisional and official assignee, and every person appointed to perform the remaining duties of the office of provisional and official assignee, and their respective estates, against costs and expenses incurred or to be incurred in any action, suit, or proceeding.

Vesting of dividends after six years non-claim.

19. All dividends declared in any court acting under the Acts relating to bankruptcy or the relief of insolvent debtors which remain unclaimed for five years after the commencement of this Act, if declared before that commencement, and for five years after the declaration of the dividend if declared after the commencement of this Act, and all undivided surpluses of estates administered under the jurisdiction of such court which remain undivided for five years after the declaration of a final dividend in the case of bankruptcy, or for five years after the close of an insolvency under this Act, shall be deemed vested in the Crown, and shall be disposed of as the commissioners of her Majesty's Treasury direct; provided that at any time after such vesting the Lord Chancellor may, if he thinks fit, by reason of the disability or absence beyond seas of the person entitled to the sum so vested, or for any other reason appearing to him sufficient, direct that the sum so vested shall be repaid out of moneys provided by Parliament, and shall be distributed as it would have been if there had been no such vesting.

PART II.

Repeal.

Enactments described in schedule repealed.

20. The enactments described in the schedule to this Act are hereby repealed; but this repeal shall not affect the past operation of any such enactment, or revive any court, office, jurisdiction, authority, or

thing abolished by any such enactment, or affect the validity or invalidity of anything done or suffered before the commencement of this Act, or any right, title, obligation, or liability accrued or restriction imposed before the commencement of this Act, by or under any such enactment, or affect any principle or rule of law derived from any enactment contained in the first and secondly mentioned Acts in the schedule to this Act; nor shall this repeal interfere with the prosecution or affect the course of any legal proceeding pending in bankruptcy or otherwise under any such enactment before the commencement of this Act; but subject to the provisions of The Bankruptcy Act, 1869, and The Debtors Act, 1869, such proceedings shall be prosecuted as if this Act had not passed; nor shall this repeal interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty or forfeiture incurred under, any enactment hereby repealed.*

§ 20.

* See also the Courts of Justice Salary and Fund Bill, sect. 34 :

“The enactments described in the fifth schedule to this Act are hereby repealed.

“Provided that this repeal shall not affect any thing already done or suffered, or any right acquired or order made, under the said enactments or any of them.

“Nor shall this repeal affect the right of any person to receive such salary, compensation, retiring annuity, pension, superannuation allowance, or progressive or prospective increase of salary, or to obtain such promotion or succession, or pension, retiring annuity, or superannuation allowance as he might have received or obtained if this repeal had not been enacted.”

SCHEDULE.—ENACTMENTS REPEALED

13 Edw. 1 (stat. West. 2) c. 11.	The masters remedy against their servants and other accompanants.
25 Edw. 3, stat. 5, c. 17.	Process of exigent in debt, detainue, and replevin.
12 Geo. 1, c. 29. in part.	An Act to prevent frivolous and vexatious } in part : namely,— arrests. } Sections one and two.
19 Geo. 3, c. 70. in part.	An Act for extending the provisions of an } in part : namely,— Act made in the twelfth year of the reign } Sections one, two, and three, and so much of King George the First, intituled an } of section four as relates to execution Act to prevent frivolous and vexatious } against the person of a defendant, and arrests ; and for other purposes. } to detaining a defendant.
43 Geo. 3, c. 46. in part.	An Act for the more effectual prevention of } in part : namely,— frivolous and vexatious arrests and suits, } Sections one, two, three, and six, so far and to authorise the levying of poundage } as they relate to England. upon executions in certain cases.
48 Geo. 3, c. 123.	An Act for the discharge of debtors in execution for small debts from imprisonment in certain cases.
52 Geo. 3, c. 144.	An Act to suspend and finally vacate the } in part : namely,— seats of members of the House of Com- } Except so far as it relates to Scotland and mons, who shall become bankrupts, and } Ireland. who shall not pay their debts in full with- in a limited time.

1 & 2 Geo. 4, c. 115.

7 & 8 Geo. 4, c. 71.
in part.

11 Geo. 4 & 1 Will. 4,
c. 70. in part.
1 & 2 Will. 4, c. 56.
2 & 3 Will. 4, c. 39.

2 & 3 Will. 4, c. 114.
3 & 4 Will. 4, c. 84.
in part.

5 & 6 Will. 4, c. 29.

An Act to repeal so much of an Act of the fifth year of the reign of his late Majesty king George the Second, relating to bankrupts, as requires the meetings under commissions of bankrupt to be holden in the Guildhall of the city of London, and for building offices in the said city for the meetings of the commissioners, and for the more regular transaction of business in bankruptcy.

An Act to prevent arrests upon mesne process where the debt or cause of action is under twenty pounds, and to regulate the practice of arrests.

An Act for the more effectual administration of justice in England and Wales.

An Act to establish a court in bankruptcy.

An Act for uniformity of process in personal actions in his Majesty's Courts of law at Westminster.

An Act to amend the laws relating to bankrupts.

An Act to provide for the performance of the duties of certain offices connected with the Court of Chancery which have been abolished.

An Act for investing in Government securities a portion of the cash lying unemployed in the Bank of England belonging to bankrupts estates, and applying the interest thereon in discharge of the expenses of the Court of Bankruptcy, and for the relief of the suitors in the said court, and for removing doubts as to the extent of the powers of the Court of Review and of the subdivision courts.

in part : namely, —
Except section six.

in part : namely, —
Sections twenty-one and twenty-two.

in part : namely, —
Sections one to ten, both inclusive.

in part : namely, —
Section nine.

SCHEDULE.—ENACTMENTS REPEALED (*continued*).

6 & 7 Will. 4, c. 27.	An Act for investing in Government securities further portions of the cash lying unemployed in the Bank of England belonging to bankrupts estates.
1 & 2 Vict. c. 110. in part.	<p>An Act for abolishing arrest on mesne process in civil actions, except in certain cases ; for extending the remedies of creditors against the property of debtors ; and for amending the laws for the relief of insolvent debtors in England.</p> <p>in part : namely,—</p> <p>Sections one to ten, both inclusive. So much of section eighteen as relates to orders of the Lord Chancellor or of the Court of Review in matters of bankruptcy, and sections twenty-three to one hundred and twenty-three, both inclusive.</p>
2 & 3 Vict. c. 39.	An Act to amend an Act passed in the last session of Parliament for abolishing arrest on mesne process in civil actions, except in certain cases ; for extending the remedies of creditors against the property of debtors ; and for amending the laws for the relief of insolvent debtors in England.
5 & 6 Vict. c. 122. 7 & 8 Vict. c. 70. 7 & 8 Vict. c. 96. in part.	<p>An Act for the amendment of the law of bankruptcy.</p> <p>An Act for facilitating arrangements between debtors and creditors.</p> <p>An Act to amend the law of insolvency, bankruptcy, and execution.</p> <p>in part : namely,—</p> <p>Sections one to fifty-nine, both inclusive.</p>
8 & 9 Vict. c. 127. in part.	<p>An Act for the better securing the payment of small debts.</p> <p>in part : namely,—</p> <p>Sections one to seven, both inclusive, and section fifteen.</p>
9 & 10 Vict. c. 95.	<p>An Act for the more easy recovery of small debts and demands in England.</p> <p>in part namely,—</p> <p>Sections ninety-eight to one hundred and one, both inclusive.</p>

- 10 & 11 Vict. c. 102. An Act to abolish the Court of Review in Bankruptcy, and to make alterations in the jurisdictions of the Courts of Bankruptcy and Court for Relief of Insolvent Debtors.
- 11 & 12 Vict. c. 77. An Act to authorise the application of part of the unclaimed money in the Court for the Relief of Insolvent Debtors in enlarging the court-house of the said court.
- 12 & 13 Vict. c. 106. The Bankrupt Law Consolidation Act, 1849.
- 14 & 15 Vict. c. 62. An Act to facilitate the more speedy arrest of absconding debtors.
- 14 & 15 Vict. c. 83. An Act to improve the administration of justice in the Court of Chancery, and in the Judicial Committee of the Privy Council. } in part : namely, —
Section seven, and section ten as far as it relates to matters of bankruptcy.
- 15 & 16 Vict. c. 77. An Act to abolish the office of Lord Chancellor's secretary of bankrupts, and to regulate the office of chief registrar of the Court of Bankruptcy.
- 16 & 17 Vict. c. 81. An Act to reduce the salary and emoluments of the registrar of meetings of the Court of Bankruptcy.
- 17 & 18 Vict. c. 119. The Bankruptcy Act, 1854.
- 18 & 19 Vict. c. 15. An Act for the better protection of purchasers against judgments, Crown debts, cases of his pendens, and life annuities or rent-charges. } in part : namely, —
Section ten.
- 22 & 23 Vict. c. 57. An Act limiting the power of imprisonment for small debts exercised by the county court judges.
- 23 & 24 Vict. c. 147. An Act to amend the 7th and 8th Victoria, chapter 70.
- 24 & 25 Vict. c. 134. The Bankruptcy Act, 1861.
- 25 & 26 Vict. c. 99. An Act to amend the Bankruptcy Act, } in part : namely, —
1861. } Except section four.
- 31 & 32 Vict. c. 104. An Act to amend the Bankruptcy Act, 1861.

THE DEBTORS ACT, 1869.

32 & 33 VICT. CHAP. 62.

An Act for the Abolition of Imprisonment for Debt, for the punishment of Fraudulent Debtors, and for other purposes.

[9th August, 1869.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

§ 1—4.

Preliminary.

1. This Act may be cited for all purposes as "The Debtors Act, 1869."

Short title.

2. This Act shall not extend to Scotland or Ireland.

Extent of Act.

3. This Act shall not come into operation until the day on which The Bankruptcy Act, 1869, comes into operation, which day is hereinafter referred to as the commencement of this Act, and words and expressions defined or explained in The Bankruptcy Act, 1869, shall have the same meaning in this Act.

Commencement and construction of Act.

PART I.

Abolition of Imprisonment for Debt.

4. With the exceptions herein-after mentioned, no person shall, after the commencement of this Act,

Abolition of imprisonment for

§ 5.
debt, with
exceptions.

be arrested or imprisoned for making default in payment of a sum of money.

There shall be excepted from the operation of the above enactment:

- (1.) Default in payment of a penalty, or sum in the nature of a penalty, other than a penalty in respect of any contract:
- (2.) Default in payment of any sum recoverable summarily before a justice or justices of the peace:
- (3.) Default by a trustee or person acting in a fiduciary capacity and ordered to pay by a Court of Equity any sum in his possession or under his control:
- (4.) Default by an attorney or solicitor in payment of costs when ordered to pay costs for misconduct as such, or in payment of a sum of money when ordered to pay the same in his character of an officer of the court making the order:
- (5.) Default in payment for the benefit of creditors of any portion of a salary or other income in respect of the payment of which any Court having jurisdiction in bankruptcy is authorized to make an order:
- (6.) Default in payment of sums in respect of the payment of which orders are in this Act authorized to be made:

Provided, first, that no person shall be imprisoned in any case excepted from the operation of this section for a longer period than one year; and, secondly, that nothing in this section shall alter the effect of any judgment or order of any Court for payment of money except as regards the arrest and imprisonment of the person making default in paying such money.

Saving of
power of
committal
for small
debts.

5. Subject to the provisions herein-after mentioned, and to the prescribed rules, any Court may commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt or instalment

of any debt due from him in pursuance of any order or judgment of that or any other competent Court.

§ 5.

Provided—(1.) That the jurisdiction by this section given of committing a person to prison shall, in the case of any Court other than the superior Courts of Law and Equity, be exercised only subject to the following restrictions; that is to say,

- (a.) Be exercised only by a judge or his deputy, and by an order made in open Court and showing on its face the ground on which it is issued:
- (b.) Be exercised only as respects a judgment of a Superior Court of Law or Equity when such judgment does not exceed fifty pounds, exclusive of costs:
- (c.) Be exercised only as respects a judgment of a County Court by a County Court judge or his deputy.

(2.) That such jurisdiction shall only be exercised where it is proved to the satisfaction of the Court that the person making default either has or has had since the date of the order or judgment the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same.

Proof of the means of the person making default may be given in such manner as the Court thinks just; and for the purposes of such proof the debtor and any witnesses may be summoned and examined on oath, according to the prescribed rules.

Any jurisdiction by this section given to the superior Courts may be exercised by a judge sitting in chambers, or otherwise, in the prescribed manner.

For the purposes of this section any Court may direct any debt due from any person in pursuance of any order or judgment of that or any other competent court to be paid by instalments, and may from time to time rescind or vary such order:

Persons committed under this section by a superior Court may be committed to the prison in

§ 6. which they would have been confined if arrested on a writ of *capias ad satisfaciendum*, and every order of committal by any superior Court shall, subject to the prescribed rules, be issued, obeyed, and executed in the like manner as such writ.

This section, so far as it relates to any County Court, shall be deemed to be substituted for sections ninety-eight and ninety-nine of the County Court Act, 1846, and that Act and the Acts amending the same shall be construed accordingly, and shall extend to orders made by the County Court with respect to sums due in pursuance of any order or judgment of any Court other than a County Court.

No imprisonment under this section shall operate as a satisfaction or extinguishment of any debt or demand or cause of action, or deprive any person of any right to take out execution against the lands, goods, or chattels of the person imprisoned, in the same manner as if such imprisonment had not taken place.

Any person imprisoned under this section shall be discharged out of custody upon a certificate signed in the prescribed manner to the effect that he has satisfied the debt or instalment of a debt in respect of which he was imprisoned, together with the prescribed costs (if any).*

6. After the commencement of this Act a person shall not be arrested upon mesne process in any action.

Power under certain circumstances to arrest defendant about to quit England.

Where the plaintiff in any action in any of Her Majesty's Superior Courts of Law at Westminster, in which, if brought before the commencement of this Act, the defendant would have been liable to arrest, proves at any time before final judgment by evidence on oath, to the satisfaction of a judge of one of those Courts, that the plaintiff has good cause of action against the defendant to the amount of fifty pounds or upwards, and that there is probable cause for believing that the defendant is about to quit England unless he be apprehended, and that

* See *Regulæ Generales*, *post*, 1, 2, 3, 4, 5.

the absence of the defendant from England will materially prejudice the plaintiff in the prosecution of his action, such judge may in the prescribed manner order such defendant to be arrested and imprisoned for a period not exceeding six months, unless and until he has sooner given the prescribed security, not exceeding the amount claimed in the action, that he will not go out of England without the leave of the Court.

§ 7.

Where the action is for a penalty or sum in the nature of a penalty, other than a penalty in respect of any contract, it shall not be necessary to prove that the absence of the defendant from England will materially prejudice the plaintiff in the prosecution of his action, and the security given (instead of being that the defendant will not go out of England) shall be to the effect that any sum recovered against the defendant in the action shall be paid, or that the defendant shall be rendered to prison.*

7. Where any person is, at the commencement of this Act, in custody in pursuance of a writ, attachment, or other process in any case in which he would not be liable to be arrested or imprisoned after the commencement of this Act, such person shall at the commencement of this Act, be discharged from such custody without payment of any fees, but his arrest, imprisonment, or discharge shall not affect the creditor's rights or remedies for enforcing the payment of any money due to him, or deprive the creditor of the benefit of any charge or security on any property of the debtor.

Discharge of persons in custody at the commencement of this Act.

Where at the commencement of this Act special bail has been given in any action the defendant in which after the commencement of this Act cannot be imprisoned on making default in satisfying the judgment recovered against him in such action, the condition of such bail, instead of being that the judgment shall be satisfied or the defendant rendered to prison, shall be deemed to be that the de-

* See *Regulæ Generales*, *post*, 6, 7, 8, 9, 10, 11.

§ 8—11. fendant shall not go out of England without leave of the Court.

Saving for
sequestra-
tion against
property.

8. Sequestration against the property of a debtor may, after the commencement of this Act, be issued by any Court of Equity in the same manner as if such debtor had been actually arrested.

Saving for
Bankruptcy
Act, 1869.

9. Nothing in this part of this Act shall in any way affect any right or power, under the Bankruptcy Act, 1869, to arrest or imprison any person.

Definition
of "pre-
scribed."

10. In this part of this Act the term "pre-scribed" means as follows:—

As respects the superior courts of Common Law, prescribed by general rules to be made in pursuance of The Common Law Procedure Act, 1852;

As respects the superior Courts of Equity, prescribed by general rules and orders to be made in pursuance of the Act of the session of the fifteenth and sixteenth years of the reign of her present Majesty, chapter eighty;

As respects the County Courts, prescribed by general rules to be made under the County Court Act, 1856; and

As respects any other Court, prescribed by the rules to be made, with the approval of the Lord Chancellor, by the persons having power to make rules in relation to the practice of such Court; or if there be no such persons, by the judge of such Court:

And general rules and orders may respectively be made by such authorities as aforesaid, for the purpose of carrying into effect this part of this Act.

PART II.

Punishment of Fraudulent Debtors.

Punishment
of fraudu-
lent debtors.

11. Any person adjudged bankrupt, and any person whose affairs are liquidated by arrangement in pursuance of the Bankruptcy Act, 1869, shall, in each of the cases following, be deemed guilty of a

misdemeanor, and on conviction thereof shall be liable to be imprisoned for any time not exceeding § 11. two years, with or without hard labour; that is to say,

- (1.) If he does not, to the best of his knowledge and belief, fully and truly discover to the trustee administering his estate for the benefit of his creditors all his property, real and personal, and how, and to whom, and for what consideration, and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any), or laid out in the ordinary expense of his family, unless the jury is satisfied that he had no intent to defraud:
- (2.) If he does not deliver up to such trustee, or as he directs, all such part of his real and personal property as is in his custody or under his control, and which he is required by law to deliver up, unless the jury is satisfied that he had no intent to defraud:
- (3.) If he does not deliver up to such trustee, or as he directs, all books, documents, papers, and writings in his custody or under his control relating to his property or affairs, unless the jury is satisfied that he had no intent to defraud:
- (4.) If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he conceals any part of his property to the value of ten pounds or upwards, or conceals any debt due to or from him, unless the jury is satisfied that he had no intent to defraud:
- (5.) If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he fraudulently removes any part of his

§ 11.

property of the value of ten pounds or upwards:

- (6.) If he makes any material omission in any statement relating to his affairs, unless the jury is satisfied that he had no intent to defraud:
- (7.) If, knowing or believing that a false debt has been proved by any person under the bankruptcy or liquidation, he fail for the period of a month to inform such trustee as aforesaid thereof:
- (8.) If after the presentation of a bankruptcy petition against him or the commencement of the liquidation he prevents the production of any book, document, paper, or writing affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law:
- (9.) If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation, or falsification of any book or document affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law:
- (10.) If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law:

- (11.) If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months next before such presentation or commencement, he fraudulently parts with, alters, or makes any omission, or is privy to the fraudulently parting with, altering, or making any omission in any document affecting or relating to his property or affairs: § 11.
- (12.) If after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or at any meeting of his creditors within four months next before such presentation or commencement, he attempts to account for any part of his property by fictitious losses or expenses:
- (13.) If within four months next before the presentation of a bankruptcy petition against him or the commencement of the liquidation, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same:
- (14.) If within four months next before the presentation of a bankruptcy petition against him or the commencement of the liquidation, he, being a trader, obtains, under the false pretence of carrying on business and dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless the jury is satisfied that he had no intent to defraud:
- (15.) If within four months next before the presentation of a bankruptcy petition against him or the commencement of the liquidation, he, being a trader, pawns, pledges, or disposes of otherwise than in the ordinary way of his trade any property which he has obtained on credit and has not paid for, unless the jury is satisfied that he had no intent to defraud:
- (16.) If he is guilty of any false representation or

§ 12—14.

other fraud for the purpose of obtaining the consent of his creditors or any of them to any agreement with reference to his affairs or his bankruptcy or liquidation.

Penalty for absconding with property.

12. If any person who is adjudged a bankrupt or has his affairs liquidated by arrangement after the presentation of a bankruptcy petition against him or the commencement of the liquidation, or within four months before such presentation or commencement, quits England and takes with him, or attempts or makes preparation for quitting England and for taking with him, any part of his property to the amount of twenty pounds or upwards, which ought by law to be divided amongst his creditors, he shall (unless the jury is satisfied that he had no intent to defraud) be guilty of felony, punishable with imprisonment for a time not exceeding two years, with or without hard labour.

Penalty on fraudulently obtaining credit, &c.

13. Any person shall in each of the cases following be deemed guilty of a misdemeanor, and on conviction thereof shall be liable to be imprisoned for any time not exceeding one year, with or without hard labour; that is to say,

- (1.) If in incurring any debt or liability he has obtained credit under false pretences, or by means of any other fraud:
- (2.) If he has with intent to defraud his creditors, or any of them, made or caused to be made any gift, delivery, or transfer of or any charge on his property:
- (3.) If he has, with intent to defraud his creditors, concealed or removed any part of his property since or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him.

False claim, &c., a misdemeanor.

14. If any creditor in any bankruptcy or liquidation by arrangement or composition with creditors in pursuance of the Bankruptcy Act, 1869, wilfully and with intent to defraud makes any false claim, or any proof, declaration, or statement of account which

is untrue in any material particular, he shall be guilty of a misdemeanor, punishable with imprisonment not exceeding one year, with or without hard labour. § 15—18.

15. Where a debtor makes any arrangement or composition with his creditors under the provisions of the Bankruptcy Act, 1869, he shall remain liable for the unpaid balance of any debt which he incurred or increased, or whereof before the date of the arrangement or composition he obtained forbearance, by any fraud, provided the defrauded creditor has not assented to the arrangement or composition otherwise than by proving his debt and accepting dividends. Debts incurred by fraud.

16. Where a trustee in any bankruptcy reports to any Court exercising jurisdiction in bankruptcy that in his opinion a bankrupt has been guilty of any offence under this Act, or where the Court is satisfied upon the representation of any creditor or member of the committee of inspection that there is ground to believe that the bankrupt has been guilty of any offence under this Act, the Court shall, if it appears to the Court that there is a reasonable probability that the bankrupt may be convicted, order the trustee to prosecute the bankrupt for such offence. Order by court for prosecution on report of trustee.

17. Where the prosecution of the bankrupt under this Act is ordered by any Court, then, on the production of the order of the Court, the expenses of the prosecution shall be allowed, paid, and borne as expenses of prosecutions for felony are allowed, paid, and borne. Expenses of prosecutions.

18. Every misdemeanor under the second part of this Act shall be deemed to be an offence within and subject to the provisions of the Act of the session of the twenty-second and twenty-third years of the reign of her present Majesty, chapter seventeen, intituled "An Act to prevent vexatious indictments for certain misdemeanors;" and when any person is charged with any such offence before any justice or justices, such justice or justices shall take into consideration any evidence adduced before him or them Application of Vexatious Indictments Act to offences under this Act.

§ 19—23. tending to show that the act charged was not committed with a guilty intent.

Form of indictment.

19. In an indictment for an offence under this Act it shall be sufficient to set forth the substance of the offence charged, in the words of this Act specifying the offence or as near thereto as circumstances admit, without alleging or setting forth any debt, act of bankruptcy, trading, adjudication, or any proceedings in, or order, warrant, or document of any Court acting under the Bankruptcy Act, 1869.

Quarter sessions to have jurisdiction in respect of offences under Act.

20. So much of the Act of the session of the fifth and sixth years of her Majesty's reign (chapter thirty-eight), "to define the jurisdiction of justices in general and quarter sessions of the peace," as excludes from the jurisdiction of justices and recorders at sessions of the peace or adjournments thereof the trial of persons for offences against any provision of the laws relating to bankrupts, is hereby repealed as from the passing of this Act; and any offence under this Act shall be deemed to be within the jurisdiction of such justices and recorders.

Mayors, &c. disqualified by arrangements.

21. The provisions of the Act of the session of the fifth and sixth years of William the Fourth, chapter seventy-six, for the regulation of municipal corporations, sections fifty-two and fifty-three, as to the disqualification of mayors, aldermen, and town councillors having been declared bankrupt or having compounded by deed with their creditors, shall extend to every arrangement or composition by a mayor, alderman, or town councillor with his creditors under the Bankruptcy Act, 1869, whether the same is made by deed or otherwise.

Justices of the peace becoming bankrupt or arranging with creditors.

22. If any person being assigned by her Majesty's Commission to act as a justice of the peace is adjudged bankrupt, or makes any arrangement or composition with his creditors under the Bankruptcy Act, 1869, he shall be and remain incapable of acting as a justice of the peace until he has been newly assigned by her Majesty in that behalf.

Punishments under

23. Where any person is liable under any other

Act of Parliament or at common law to any punishment or penalty for any offence made punishable by this Act, such person may be proceeded against under such other Act of Parliament or at common law or under this Act, so that he be not punished twice for the same offence.

§ 24—26.

this Act
cumulative.

PART III.

Warrants of Attorney, Cognovits, and Orders for Judgment.

24. After the commencement of this Act, a warrant of attorney to confess judgment in any personal action or cognovit actionem given by any person shall not be of any force unless there is present some attorney of one of the superior Courts on behalf of such person expressly named by him and attending at his request to inform him of the nature and effect of such warrant or cognovit before the same is executed, which attorney shall subscribe his name as a witness to the due execution thereof, and thereby declare himself to be attorney for the person executing the same, and state that he subscribes as such attorney.

Warrants of attorney and cognovit actionem to be executed in the presence of an attorney on behalf of the person.

25. A warrant of attorney to confess judgment or cognovit actionem not executed in manner aforesaid shall not be rendered valid by proof that the person executing the same did in fact understand the nature and effect thereof, or was fully informed of the same.

Warrant, &c. not formally executed invalid.

26. Where in an action a warrant of attorney to confess judgment or a cognovit actionem is given, and the same, or a true copy thereof, is not filed with the officer acting as clerk of the dockets and judgments in the Court of Queen's Bench within twenty-one days next after the execution thereof as required by the Act of the third year of the reign of King George the Fourth (chapter thirty-nine), "for

Filing of warrant of attorney and cognovit actionem.

§ 27, 28. preventing frauds upon creditors by secret warrants of attorney to confess judgment," the same shall be deemed fraudulent and shall be void; and if any such warrant of attorney or cognovit actionem so filed was given subject to any defeasance or condition, such defeasance or condition shall be written on the same paper or parchment with the warrant or cognovit before the filing thereof, otherwise the warrant or cognovit shall be void.

Filing of
judge's
order to
enter up
judgment.

27. Where a judge's order made by consent is given by a defendant in a personal action whereby the plaintiff is authorised forthwith or at any future time to sign or enter up judgment, or to issue or to take out execution, whether such order is made subject to any defeasance or condition or not, then if the action is in the Court of Queen's Bench the order, and if the action is in any other Court a true copy of the order, shall, together with an affidavit of the time of such consent being given, and a description of the residence and occupation of the defendant, be filed with the officer acting as clerk of the docquets and judgments in the Court of Queen's Bench within twenty-one days after the making of the order, otherwise the order and any judgment signed or entered up thereon, and any execution issued or taken out on such judgment, shall be void.

Application
of 3 Geo. 4,
c. 39, and
6 & 7 Vict.
c. 66, to
judge's
orders.

28. The provisions of the said Act of the third year of King George the Fourth, and of the Act of the session of the sixth and seventh years of her Majesty's reign (chapter sixty-six), "to enlarge the provisions of an Act for preventing frauds upon creditors by secret warrants of attorney to confess judgment," for liberty to file a warrant of attorney or cognovit actionem, or a copy thereof, with the clerk of the docquets and judgments, and for that clerk to make certain entries and search in relation thereto, and for entering satisfaction thereon, and for fees for search, and filing and taking office copies, shall extend and be applicable to every such judge's order.

29. Nothing in this Act contained shall affect the custom of foreign attachment as exercised by any competent Court, or the proceedings in relation to such custom.

§ 29.

Exemption
from act of
foreign
attachment.

THE BANKRUPTCY ACT, 1869.

GENERAL RULES

FOR REGULATING THE

PRACTICE AND PROCEDURE

OF THE

LONDON BANKRUPTCY COURT

AND OF THE

COUNTY COURTS,

AND

SCALES OF COSTS AND FEES.

CONTENTS.

	PAGE
Definition of Terms	139
Delegation of Powers	140
Sittings in Chambers	140
Proceedings	140
Proceedings by Company or Co-partnership	142
Declaration of Inability to Pay Debts	142
Debtor's Summons	142
Bankruptcy Petition	143
Evidence	147
Motions and Practice	147
Service and Execution of Process	148
Service of a Debtor's Summons or a Bankruptcy Petition	148
Proof of Debts	149
Taking Accounts of Property mortgaged or pledged, and of the Sale thereof	151
Transfer of Proceedings	152
Proxy	153
Meetings of Creditors	153
Trustee	155
Where Registrar Trustee	158
Committee of Inspection	158
Dividends	158
Order of Discharge	160
Appeal	160
Affidavits	161
Security	162
Witnesses	163
Discovery of Bankrupt's Property	163
Application for Discharge during three years after close of Bankruptcy	164
Arrests, Commitments	164
Setting aside Pay, &c.	165
Enforcement of Debt against undischarged Bankrupt	165
Costs	166
Trial by Jury	166
Sittings of a County Court	168
Stamps	169
Examination of Bankrupt or Witness	169
Amendments	169
Rules relating to the Business of the London Bankruptcy Court	169
Duties of Comptroller, and the Books and Accounts to be kept by Registrars and Trustees	173
Proceedings for Liquidation by Arrangement or Composition with Creditors, Sections 125 and 126	175
Trust Deeds	187
Prior Rules and Orders	187
List of Forms	189
Scale of Attorney's Costs	280
Seals of Court	288
Fees	288

GENERAL RULES

MADE IN PURSUANCE OF

THE BANKRUPTCY ACT, 1869.

32 & 33 VICT. c. 71.

IT IS ORDERED as follows, that is to say :—

Definition of Terms.

1. IN the construction of these Rules and Forms, words importing the singular number shall include the plural, and words importing the plural number shall include the singular number, and words importing the masculine gender shall include females, and the following terms shall (if not inconsistent with the context or subject matter) have the respective meanings herein-after assigned to them, that is to say :

“The Act” shall mean the Bankruptcy Act, 1869 :

“Court” shall mean the Court having jurisdiction in the matter :

“Judge” shall mean the judge or a lawfully appointed deputy judge of any such Court :

“Registrar” shall mean a registrar or any deputy registrar of any such Court :

“Creditor” shall include a firm of creditors in partnership :

“Debtor” shall include a firm of debtors in partnership :

“Attorney” shall mean any attorney, or solicitor entitled to practise in any such Court :

“Name” of any person shall mean both the Christian name or the initial letter or contraction of the Christian name and the surname of such person :

1.

2-7.

"Affidavit" shall include statutory declarations, affirmations, and attestations upon honour, and the word "sworn" shall include declaring and affirmed according to statute and attested upon honour :

"District" shall, when used with reference to a County Court, mean the district of such Court for purposes of bankruptcy jurisdiction :

"Gazetted" shall mean that the notice or thing is to be published in the *London Gazette* :

"Local paper" shall mean a paper circulating in the locality of the Court :

"Sealed" shall mean sealed with the seal of the Court :

And, unless there be something in the context inconsistent therewith, the provisions of sections 4 and 114 of the Act shall apply to these rules.

Delegation of Powers.

Sect. 67. 2. The Chief Judge in Bankruptcy may delegate to the Registrars of his Court such of the powers vested in him by the Act as such Judge may deem expedient to delegate, except the power to make an order to commit a person for contempt.

Sect. 67. 3. The Judge of a local Court of Bankruptcy may delegate to a Registrar of his Court, but to no other officer, such of the powers vested in him by the Act as such Judge may deem expedient to delegate, except the power to make an order to commit a person for contempt.

4. Every order made by a Registrar while acting under any delegated power, shall have the same force and validity, and be subject to the same appeal, as an order made by the Judge, but the Registrar may adjourn any matter for the opinion of the Judge if he shall think fit.

Sittings in Chambers.

5. Any matter may be heard and disposed of in chambers by a Judge or Registrar, except the public examination of the bankrupt under section 19 of the Act, and the granting an order of discharge.

6. Where the Judge or Registrar shall be of opinion that any matter ought to be heard and disposed of in open court, or all the contending parties shall require any matter to be so heard and disposed of, such matter shall be so heard and disposed of, or if part heard shall be adjourned for the purpose of being further heard and disposed of in open court.

Proceedings.

7. In matters under the Act the proceedings may be in the several forms set forth in the schedule attached to these rules, or as near thereto as possible, and where forms for any proceeding in such matters are not provided in the sche-

dule, the forms required may be framed by the parties, using as guides those so provided, so far as they are applicable. 8-13.

8. All proceedings in the Court (except notices to creditors) shall be written or printed or partly written or partly printed, on parchment or paper of the size hitherto used in bankruptcy, that is to say, on sheets of sixteen inches in length and ten inches in breadth, or thereabouts; but no objection shall be allowed to any proof of debt, affidavit, or proxy on account of its being written or printed on other sized paper.

9. All proceedings of the Court shall remain of record in the Court, so as to form a complete record of each matter, and they shall not be removed for any purpose, except for the use of the officers of the Court or by special direction of the Judge or Registrar, but they may at all reasonable times be inspected by the trustee, the bankrupt, and any creditor who has proved, or any person on their behalf.

10. All summonses, petitions, notices, orders, warrants, and other process issued by the Court shall be sealed.

11. Where the Court orders a general meeting of creditors Sect. 20. to be summoned under section 20 of the Act, it shall be summoned as the Court directs, and in default of any direction the Registrar shall transmit a sealed copy of the order to the trustee fourteen days at least before the time appointed for the meeting to take place, and the trustee shall, ten days before such meeting, send a copy of the order to each creditor at the address given in his proof, or when he shall not have proved, the address given in the list of creditors by the bankrupt, or such other address as may be known to the trustee.

12. All office copies of petitions, proceedings, books, papers, and writings, or any parts thereof required by any trustee, or by any person being a bankrupt or debtor who has instituted proceedings under sections 125 or 126 of the Act, or by any creditor of any such person, or attorney of any such person, or creditor, shall be provided by the Registrar, and shall, except as to figures, be fairly written at length, and be sealed with the seal of the Court, and delivered out without any unnecessary delay, and in the order in which they shall have been bespoken, and be charged and paid for at the rate of twopence per folio of seventy-two words.

13. In lieu of attaching a copy of the *London Gazette* to the proceedings in each bankruptcy or other matter, the Registrar shall file with the proceedings the page of the Gazette in which the advertisement occurs, and in case of an advertisement in a local paper, he shall file the advertisement with a memorandum of the name of the paper and date of its publication; and for this purpose one copy of every *London Gazette* and of each local newspaper in which any notices in

- 14—19. any matter of bankruptcy in such Court is inserted shall be left with the Registrar by the person inserting the notice.

14. All notices and other proceedings, for the delivery of which no special mode is prescribed, may be sent by prepaid post letter to the last known address of the person, to be served therewith.

Proceedings by Company or Co-partnership.

15. A bankruptcy petition or debtor's summons, against any debtor to any co-partnership duly authorized to sue and be sued in the name of a public officer or agent of such co-partnership, may be presented by or sued out by such public officer or agent as the nominal petitioner or plaintiff for and on behalf of such co-partnership on such public officer or agent filing an affidavit, according to the form in the schedule, stating that he is such public officer or agent, and that he is authorized to present or sue out such petition or debtor's summons. Where a corporate body is petitioner or plaintiff, any affidavit in support of such petition or debtor's summons may be made by a director or other officer on its behalf.

Declaration of Inability to Pay Debts.

- Sect. 6. 16. A declaration by a debtor admitting his inability to pay his debts shall be dated, signed, and witnessed according to the form in the schedule, and shall be filed in the London Bankruptcy Court, if the debtor shall reside or carry on business within the district of that Court, and where the debtor neither resides nor carries on business within the district of that Court, it shall be filed in the Court within the district of which the debtor resides or carries on business.
- Sect. 59.

Debtor's Summons.

- Sect. 7. 17. A debtor's summons, according to the form in the schedule, may be granted by the London Bankruptcy Court if the debtor resides or carries on business within the district of that Court, and where the debtor neither resides nor carries on business within the district of that Court, it may be granted by the Court within the district of which the debtor resides or carries on business.
- Sect. 59.

18. A creditor desirous that a debtor's summons may be granted must file an affidavit of the truth of his debt, and lodge the summons together with two copies thereof and three copies of his particulars of demand.

19. The particulars of demand shall be expressed with reasonable and convenient certainty as to dates and all other matters, but no objection shall be allowed to the particulars unless the Court shall consider that the debtor has been misled by them.

20. The Registrar shall seal such particulars, and such particulars shall then be deemed part of the summons, and the original summons shall be filed, and the copies be sealed and issued to the creditor. 20-26.

21. Every debtor's summons shall be endorsed with the name and place of business of the attorney actually suing out the same, but in case no attorney shall be employed for the purpose, then with a memorandum expressing that the same has been sued out by the creditor in person.

22. There shall be endorsed on the debtor's summons, in addition to an intimation of the consequences of neglect to comply with the requisitions of the summons, a notice to the debtor that if he disputes the debt and desires to obtain the dismissal of the summons he must file an affidavit with the Registrar within seven days in the case of a trader, and three weeks in the case of a non-trader, stating that he is not so indebted, or only so to a less amount than 50*l*. Sect. 7.

23. Where a debtor files the above-mentioned affidavit the Registrar shall fix the time and place at which the application for the dismissal of the summons will be heard by the Court, and give notice thereof to the creditor and debtor three days before the day so fixed.

24. Where proceedings on a debtor's summons have been stayed for the trial of the question of the validity of the debt claimed therein, and such question has been decided against the validity of the debt, the debtor on production of the judgment of the Court, or an office copy thereof, shall be entitled to have the debtor's summons dismissed, and, if the Court thinks fit, with costs, but the order for costs shall not be enforced for seven days, or where the creditor has lodged a notice showing that he has taken the necessary steps to set aside the judgment, until after the final decision thereon. Sect. 7.

25. Where proceedings on a debtor's summons are stayed upon security being given, the creditor shall take or continue proceedings for the payment of the debt within twenty-one days of the date on which the security was completed, and shall prosecute the same with effect and without delay, and if he fail so to do the debtor shall be entitled to have the summons dismissed with costs.

Bankruptcy Petition.

26. A bankruptcy petition shall be filed in the London Bankruptcy Court if the debtor resides or carries on business within the district of that Court, and where the debtor neither resides nor carries on business within the district of that Court, it shall be filed in the Court within the district of which the debtor resides or carries on business. Sect. 6.

27-34. 27. Every petition shall be fairly written or printed, or partly written and partly printed, on parchment or paper according to the form in the schedule, and no alterations, interlineations, or erasures shall be permitted without leave of the Registrar, except so far as the same may be necessary in order to adapt the printed form to the circumstances of the particular case; and every petition must be lodged, with two copies to be sealed and issued to the petitioner.

Sect. 59.

28. Where a petitioning creditor is not known to the Registrar of the Court, or the petition shall not be attested by an attorney, the petition shall not be filed until the petitioner shall be identified to the satisfaction of the Registrar.

29. When the petitioning creditor cannot himself verify all the statements contained in the petition, he must file in support of the petition the affidavit of any person who can depose to them.

30. Where a petition is presented by two or more creditors not in partnership, each creditor must depose to the truth of such of the statements in the petition as are within his own knowledge, either in a joint or separate affidavit.

31. The petitioning creditor shall, at his own costs, file and prosecute his petition and the proceedings under any order of adjudication made thereon, until the appointment of a creditors' trustee; and the Court shall make order for the payment of such costs out of the first net proceeds of the estate of the bankrupt.

Sect. 8. 32. After the presentation of the petition, and before sealing the copies of the petition for service, the statements in the petition shall be carefully investigated, and where some of the statements in the petition cannot be sworn to, witnesses may be summoned to prove the same.

Sect. 13. 33. After the presentation of a petition, upon the application of a creditor, and upon proof by affidavit of sufficient grounds for the appointment of a receiver or manager of the property, or business of the debtor, or any part thereof, the Court may, if it think fit, make such appointment; and where the petition is dismissed the creditor shall pay such costs of the receiver or manager as the Court may direct, and the Court shall, if required, adjudicate with respect to any damages or claim thereto arising out of his appointment, or make such order thereon as it thinks fit, and such order shall be final and conclusive between the parties, and between them or either of them and the receiver or manager, unless the decision be appealed from.

34. The Registrar shall appoint the time and place on which the petition will be heard, and notice thereof shall be written on the petition and sealed copies, and where the petition has not been served the Registrar may from time to time

alter the first day so appointed, and appoint another day and hour. 35—41.

35. Where there are more respondents than one to a petition the rules as to service shall be observed with respect to each respondent, but where all the respondents have not been served, the petition may be heard separately or collectively as to the respondent or such of the respondents as has or have been served, and separately or collectively as to the respondents not then served according as service upon them is effected.

36. Where a debtor intends to show cause against a petition Sect. 9. he shall file a notice with the Registrar showing the statements in the petition which he intends to deny or dispute, and transmit by post to the petitioning creditor a copy of the notice three days before the day on which the petition is to be heard.

37. If the debtor does not appear at the hearing, the Court may make adjudication without further proof of the statements in the petition, if it shall think fit.

38. On the appearance of the debtor to show cause against the petition, the petitioning creditor's debt, trading, and act of bankruptcy, or such of those matters as the debtor shall have given notice that he intends to dispute, shall again be proved, and if any new evidence of those matters, or any of them, shall be given, or any witness or witnesses to such matter shall not be present for cross-examination, and further time shall be desired to show cause, the Court shall, if it think the application reasonable, grant such further time as it may think fit.

39. If any creditor shall neglect to appear on his petition, no subsequent petition against the same debtor or debtors, or any of them, either alone or jointly with any other person or persons, shall be presented by the same creditor without the special leave of the Court to which the previous petition was presented.

40. The personal attendance of the petitioning creditor and of the witness or witnesses to prove the debt, the trading, and act of bankruptcy, upon the hearing of the petition, may, if the Court shall think fit, be dispensed with.

41. A debtor shall not be adjudged bankrupt on a petition Sect. 6. in which the act of bankruptcy stated to have been committed by him is that the debtor has neglected to pay, secure, or compound with the petitioner a sum mentioned in a debtor's summons within seven days or three weeks, as the case may be, where such debtor shall have applied for the dismissal of such summons until after the hearing of the application, or where the summons has been dismissed, or during a stay of the proceedings thereon. par. 6.

42—48.

Sects. 6 & 8.

42. Where a petition is presented and the act of bankruptcy stated to have been committed is that the debtor has filed in the Court to which the petition is presented a declaration admitting his inability to pay his debts, the Court may, if the debtor consents in writing thereto, hear and adjudicate upon the petition forthwith.

Sect. 9.

43. Where proceedings on a petition have been stayed for the trial of the question of the validity of the petitioning creditor's debt, and such question has been decided in favour of the validity of the debt, the petitioning creditor may apply to the Registrar to fix a day on which further proceedings on the petition may be had, and the Registrar on production of the judgment of the Court in which the question was tried, or an office copy thereof, shall give notice to the petitioner by post of the time and place fixed for the hearing of the petition, and a like notice to the debtor at the address given in his notice to dispute.

44. Where proceedings on a petition have been stayed for the trial of the question of the validity of the petitioning creditor's debt, and such question has been decided against the validity of the debt, the debtor may apply to the Registrar to fix a day on which he may apply to the Court for the dismissal of the petition with costs, and the Registrar on the production of a copy of the judgment of the Court in which the question was tried, or an office copy thereof, shall give notice to both the petitioner and debtor by post of the time and place fixed for the hearing of the application.

Sect. 10.

45. Notice of the making an order of adjudication shall be advertised in one local paper according to the form in the schedule.

Sect. 18.

46. Upon adjudication being made, a certificate declaring the Registrar to be the trustee must be put on the file of the proceedings in accordance with section 18 of the Act.

Sect. 9.

47. Where proceedings on a petition are stayed upon security being given, the creditor shall take or continue proceedings for the payment of the debt within twenty-one days of the date on which the security was completed, and shall prosecute the same with effect and without delay, and if he fail so to do the debtor shall be entitled to have the petition dismissed with costs.

Sect. 80,
par. 2.

48. Where two or more petitions are presented to the same Court against the same debtor, or against debtors being members of the same partnership, the petition which was first presented shall be first heard; and where such first petition shall not have been served, or where the debtor shows cause against the petition, or where delay will be avoided, any other petition which has been served may be heard, and if the Court make adjudication thereon, the Court shall, after

the expiration of the time allowed for appeal against the adjudication, dismiss all the other petitions upon such terms as to costs as it shall deem just. 49-54.

Evidence.

49. The Court may in any matter take the whole or any part of the evidence either *viva voce*, or by interrogatories, or upon affidavit, or by commission abroad.

Motions and Practice.

50. All applications to the Court in the exercise of its primary jurisdiction by virtue of the Act, shall (unless otherwise provided or the Court shall in any particular case otherwise permit) be by way of motion, supported by affidavit, upon hearing which the Court shall make such order therein as shall be just; but in cases in which any other party or parties than the applicant are to be affected by such order, no such order shall be made, unless upon the consent of such person or persons duly shown to the Court; or upon proof that notice of the intended motion and copy of the affidavit in support thereof has been served upon the party or parties to be affected thereby four clear days at least before the day named in such notice as the day when the motion is to be made: provided, however, that the Court may, if it shall think fit, in any case where the party or parties to be affected by the order, or any of them, shall not have been duly served with a notice of the motion for such order, make an order calling upon the party or parties to be affected thereby to show cause, at a day to be named by the Court in such order, why such order should not be made.

51. Every order to show cause shall be served upon the party or parties to be affected thereby four clear days at the least before the day appointed for showing cause.

52. In cases in which personal service of any notice of motion, or of any rule or order of the Court, is required, the same shall be effected, in the case of a notice of motion, by delivering at any time to the party or parties to be served, and each of them, a duplicate of the notice of motion; and in the case of a rule or order by delivering to the party or parties to be served, and each of them, a sealed copy of the order or rule.

53. Notices of which substituted service may be made (otherwise than by post or advertisement) shall be served between the hours of eight o'clock in the forenoon and nine o'clock in the afternoon.

54. Every affidavit to be used in obtaining, supporting, or opposing any motion or order for showing cause for or against any order or rule of Court, shall be filed with the Registrar two days before the day appointed for the hearing; and no

55-61. affidavit in reply or in rejoinder is to be used except by leave of the Court.

55. The Registrar, upon any affidavit being left with him to be filed, shall indorse the same with the day of the month and year when the same was so left, and forthwith file the same, with the proceedings to which the same relates, and any affidavit left with a Registrar to be filed, shall on no account be delivered to any person whatever, except by order of the Court.

56. A short note of every motion shall be delivered to the Registrar previous to the public sitting of the Court, specifying the bankruptcy or other matter to which the same relates, the name of the party on whose behalf the same is made, the name and residence of the attorney of such party and of the counsel, if the same be made by counsel, and the name of any party, and the name and residence of his attorney, on whom any notice of such motion has been served.

57. Except in cases of emergency all motions shall be made and heard in the order in which they are set down, at the sitting of the Court, but motions by the Bar shall be heard in precedence to those by attorneys.

Service and Execution of Process.

58. Unless otherwise directed or permitted by these rules, it shall be the duty of a high bailiff to serve all orders, summonses, petitions, and notices; to execute all warrants and processes; to attend all sittings of the Court (except sittings in chambers); to prepare and cause to be inserted in the *London Gazette* and newspapers, all advertisements and notices, and to do and perform all such things as may be required of him by the Court or trustee.

Service of a Debtor's Summons or a Bankruptcy Petition.

59. A debtor's summons shall be personally served within twenty-one days from the date of the summons, by delivering to the debtor a sealed copy of the summons.

60. A bankruptcy petition shall be personally served seven days before the day of its hearing by delivering to the debtor a sealed copy of the filed petition.

Sects. 7 & 8

61. A debtor's summons or a petition shall be served upon the debtor by an officer or a bailiff of the Court or by the creditor or his attorney; but if personal service cannot be effected, the Court may grant extension of the time for service, or if the Court is satisfied by affidavit that the debtor is keeping out of the way to avoid such service, it may order service to be made by delivery of the summons or petition to some adult inmate at his usual or last known place of residence or business, or it may order, in the case of a sum-

62—68.

mons, that a notice of the granting of the summons, according to the form in the schedule, be gazetted, and that the publication of such notice in the *Gazette* shall be deemed to be service on the debtor on the seventh day after such publication; or in the case of a petition, the Court may order that a notice, according to the form in the schedule, be gazetted, requiring the debtor to appear at the hearing of the petition on the day named, being not less than fourteen days after the publication of the notice, and that such notice shall be deemed to be served on the debtor.

62. Notice of the publication in the *Gazette* of the order of the Court shall be given in one local paper, according to the form in the schedule.

63. Service of the summons or petition shall be proved by affidavit with a sealed copy of summons or petition attached and filed in Court forthwith after the service.

64. An application for extension of time for service of a debtor's summons or a petition shall be in writing, and need not be supported by affidavit, unless in any case the Court shall otherwise require.

65. Where the act of bankruptcy alleged in a petition to have been committed by the debtor is that the debtor, being a trader, has departed from his dwelling-house, or otherwise absented himself, the petition may be heard forthwith on a sealed copy of the petition being left at the usual or last known place of residence or business of the debtor.

66. Where a debtor petitioned against is not in England, the Court upon such evidence as shall satisfy it that the service will be effectual or sufficient, may order service to be made within such time and in such manner and form as it shall deem fit.

Proof of Debts.

67. A creditor may prove his debt at any duly summoned meeting of creditors, or at any time before the meeting, by Sects. 25 & 31. delivering or sending through the post in a prepaid letter, before the appointment of a creditor's trustee, to the Registrar of the Court, and after the appointment of a creditor's trustee to such trustee, an affidavit according to the form in the schedule.

68. The affidavit may be made by himself or by any agent, Sect. 25. or any clerk or other person in his employment, but if the affidavit is made by an agent or clerk it shall state that he is authorized by the creditor to make the affidavit, and that it is within his own knowledge that the debt was incurred for the consideration stated, and that to the best of his knowledge and belief the debt still remains unpaid and unsatisfied.

- 69—76.** 69. A company or other body incorporated or authorized to sue may prove their debt by an agent, according to the form in the schedule.
- Sect. 80,
par. 7.
Sects. 17, 25. 70. A Registrar in his capacity of trustee may admit proofs, and upon sufficient cause shown, disallow any proof to which objection may be taken at the first or any other meeting of creditors.
- Sect. 14. 71. Where a trustee has been appointed by the creditors, the proofs of debts that have been received by the Registrar shall be given over to the trustee, but the Registrar shall make and file a list of such proofs on the proceedings.
- Sects. 25 &
31. 72. A creditor's trustee as soon as may be after his appointment, and after the receipt of a proof of a debt, shall examine every proof and the grounds of the debt, and in writing reject or admit it, in whole or in part, or require further evidence in support thereof, and when he shall admit or reject any claim he shall give notice thereof in writing to the creditor, stating, in case of rejection, the grounds thereof.
73. If at any time after the admission of any debt by the trustee he shall have reason to believe that such debt has been improperly admitted, he may apply to the Registrar, upon affidavit setting forth the facts, for a day to be appointed for the Court to consider the propriety of expunging the proof or reducing the amount thereof.
74. Any creditor dissatisfied with the decision of the trustee in respect of a proof, may, within fourteen days after the receipt of the notice from the trustee, apply to the Court to vary or reverse the decision, and the creditor shall give notice to the trustee thereof seven days before the day so fixed.
- Sect. 20,
par. 3. 75. The trustee in every bankruptcy shall send to the Registrar of the Court in which such bankruptcy is pending a copy certified by him of every resolution of a meeting of creditors, and shall also, on the first day of every month, send to the said Registrar a certified list of all proofs, if any, tendered during the month next preceding, distinguishing in such list, the proofs admitted, those rejected, and such as stand over for further consideration.
76. Any separate creditor of any bankrupt shall be at liberty to prove his debt under any adjudication of bankruptcy made against such bankrupt jointly with any other person or persons. And under every such adjudication distinct accounts shall be kept of the joint estate and also of the separate estate or estates of each bankrupt, and the separate estate shall be applied in the first place in satisfaction of the debts of the separate creditors. And in case there shall be an overplus of the separate estate, such overplus shall be carried to the account of the joint estate. And in case there shall be an overplus of the joint estate, such overplus shall be

carried to the account of the separate estates of each bankrupt in proportion to the right and interest of each bankrupt in the joint estate. And the cost of taking such accounts shall be paid out of the joint and separate estates respectively as the Court shall direct. 77, 78.

77. Upon all debts or sums certain, payable at a certain time or otherwise, whereupon interest is not reserved or agreed for, and which shall be overdue at the date of the order of adjudication and proveable in bankruptcy, the creditor shall be entitled to prove for interest, to be calculated, at a rate not exceeding four pounds per centum per annum, up to the date of the said order, from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written instrument at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the time of payment. Any creditor may prove for a debt not payable when the bankrupt committed an act of bankruptcy, and be entitled to prove such debt as if the same was payable presently, and receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of five pounds per centum per annum, computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms upon which it was contracted.

Taking Accounts of Property Mortgaged or Pledged, and of the Sale thereof.

78. Upon application by motion by any person claiming to be a mortgagee of, or to have security over any part of the bankrupt's estate or effects, real or personal, and whether such mortgage or security shall be by deed or otherwise, and whether the same shall be of a legal or equitable nature, the Court will proceed to inquire whether such person is such mortgagee, or is entitled to such security, and for what consideration and under what circumstances; and if it shall be found that such person is such mortgagee, or is entitled to such security, and no sufficient objection shall appear to the title of such person to the sum claimed by him, under such mortgage or security, the Court will then proceed to take an account of the principal, interest, and costs due upon such mortgage or security, and of the rents and profits, or dividends, interest, or other proceeds received by such person, or by any other person by his order or for his use, in case he shall have been in possession of the property over which the mortgage or security shall extend, or any part thereof, and the Court will then direct notice to be given in such public papers as it shall think fit, when and where, and by whom and in what way the said premises or property, or the interest

79—84. therein so mortgaged, or over which the security shall so extend, are to be sold, and that such sale be made accordingly, and that the trustee (unless it be otherwise ordered) shall have the conduct of such sale; but it shall not be imperative on any such mortgagee to make such application.

79. All proper parties shall join in the conveyance to the purchaser, where necessary, as the Court shall direct.

80. The monies to arise from such sale shall be applied in the first place in payment of the costs, charges, and expenses of the Trustee, of and occasioned by the application to the Court, and of and attending such sale, and then in payment and satisfaction so far as the same shall extend of what shall be found due to such mortgagee, or person so having security, for principal, interest, and costs, and that the surplus of the said monies (if any) be paid to the trustee. But in case the monies to arise from such sale shall be insufficient to pay and satisfy what shall be so found due to such mortgagee or person so having security, then he shall be entitled to prove as a creditor, for such deficiency, and receive dividends thereon rateably with the other creditors, but so as not to disturb any dividend or dividends then already made.

81. For the better making such inquiry and taking such account, and making a title to the purchaser, all parties may be examined by the Court upon interrogatories or otherwise as it shall think fit, and shall produce before the Court upon oath all deeds, papers, and writings in their respective custody or power, relating to the estate or effects of the bankrupt, as the Court shall direct.

Transfer of Proceedings.

Sect. 80
par. 5.

82. Where the Judge of a County Court certifies that in his opinion the bankruptcy would be more advantageously conducted in the London Bankruptcy Court or some other County Court, the Registrar shall, if the opinion is certified before the first meeting of creditors, lay the same before such meeting, and if it has been certified after such meeting, he shall transmit a copy of such certified opinion to the trustee, who shall thereupon summon a meeting of creditors to consider the same.

83. If within fourteen days after transmitting such notice to the trustee no resolution of the creditors objecting to such transfer shall be received by the Court through the Registrar, the transfer may be made accordingly.

84. Where the proceedings in any bankruptcy are transferred from the Court to which the petition was presented to any other Court, the Registrar of the first Court shall send by book-post all the proceedings to the Registrar of the Court to which the proceedings are transferred; and the

receipt of such proceedings shall be considered to authorize the latter Court to continue such proceedings, without any further order for transferring them than is contained in the proceedings. 85-90.

Proxy.

85. The instrument appointing a proxy shall be in writing under the hand of the creditor, or if such creditor is a corporation or company under the hand of an agent stating that he is duly authorized on its behalf; and such instrument shall be according to the form in the schedule, and shall, unless it is expressly stated otherwise therein, be deemed and allowed as an authority to the appointee of the creditor to vote for him and on his behalf at all meetings of creditors in the matter, or adjournments thereof, and generally to act for the creditor in all other matters under the Act, of whatsoever kind, as fully as the creditor himself could act. Sects. 16, and 80, par. 8.

86. The instrument must be produced at the first meeting at which the proxy attends and be filed.

Meetings of Creditors.

87. If the petitioning creditor or any other creditor desire that the first meeting of creditors should be held at any other town than the town where the Court usually holds its sittings, application, supported by affidavit showing grounds for the application, must be made at the hearing of the petition. If such application be by any other person than the petitioning creditor, two days' notice thereof must be given to the petitioning creditor, and if the Court be reasonably satisfied that the circumstances of the estate and of the creditors require that the application should be granted the same shall be granted accordingly. Sect. 110.

88. With every such application for a meeting to be held elsewhere than in the London Court of Bankruptcy, or in the town in which the County Court holds its sittings, there shall be deposited in the office of the Registrar the sum of three pounds to defray the reasonable expenses of the Registrar and of his clerk in attending such meeting, to be afterwards allowed to the applicant out of the estate by the trustee.

89. The first meeting of creditors shall be summoned immediately after making an order of adjudication, by the Registrar appointing a day for the first meeting of creditors and by giving ten days' notice thereof in the *London Gazette* and in one local paper according to the form in the schedule. Sect. 14.

90. An order for the attendance of the bankrupt at the first meeting and the production of his statement of affairs shall be then made by the Court, and a sealed copy of the order shall be served on the bankrupt personally, or by leaving the same with some adult inmate at his usual or last known place of residence or business. Sect. 19.

91—98. 91. In cases of partnership the bankrupt shall produce a statement of their partnership affairs, and each bankrupt shall produce a statement of his separate affairs.

Sect. 84. 92. At the first meeting of the creditors the bankrupt shall produce in duplicate a statement of his affairs according to the form in the schedule, but the non-production of the statement shall not delay the appointment of a trustee, or necessitate the adjournment of the meeting.

Sect. 16. 93. A meeting of creditors shall not be competent to act for any purpose under the Act, (except the election of a chairman, the proving of debts, and the adjournment of the meeting,) unless there are present or represented thereat a quorum of at least three, or all the creditors if their number does not exceed three.

Sect. 16. 94. Where within half an hour from the time appointed for the first meeting, a quorum of creditors is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the Registrar or chairman may appoint, not being less than seven or more than twenty-one days; and if the meeting adjourned is the first meeting of creditors, or a meeting called to fill up a vacancy in the office of trustee, and a quorum is not present or represented at the adjourned meeting, the Registrar shall report the fact to the Court for its decision under section 84 of the Act.

Sect. 21. 95. Where a meeting of creditors is summoned by a trustee it shall be summoned by the trustee transmitting to each creditor at the address given in his proof, or when he shall not have proved, the address given in the list of creditors by the bankrupt, or such other address as may be known to the trustee, seven days before the meeting is to be held, a notice setting forth the time and place, at which it is to be held, and the purpose for which it is summoned.

96. At the first meeting, or some time thereafter, the Registrar shall appoint the time and place for the bankrupt to attend for his public examination by the Court, such time not being later than forty days from such first meeting, unless otherwise directed by the Registrar.

97. Wherever a meeting of creditors is called by notice, the proceedings had, and resolutions come to at such meeting, shall be valid, notwithstanding that some creditors shall not have received the notice sent to them, unless otherwise ordered by the Court.

98. An affidavit by a trustee, or an officer of the Court, or by any clerk of either, that letters have been put into a post office, shall be sufficient evidence of such notices having been duly sent to the persons to whom the same purport to have been addressed.

99. A secured creditor, unless he shall have realized his security, shall, previously to being allowed to prove or vote, state in his proof the particulars of his security and the value at which he assesses the same, and he shall be deemed to be a creditor only in respect of the balance due to him after deducting such assessed value of the security. 99-107.

100. Any secured creditor so proving shall be bound to pay over to the trustee the amount which his security shall produce beyond the amount of such assessed value, and the trustee shall be entitled, at any time before realization of such security by the creditor, to redeem the same upon payment of such assessed value.

101. The proof of any such creditor shall not be increased in the event of the security realizing a less sum than the value at which he has so assessed the same.

102. The costs of summoning a meeting of creditors by any person other than the trustee shall be paid by the person at whose instance it is summoned, to be repaid to him out of the estate if the trustee, or the committee of inspection, or the Court shall so direct.

Trustee.

103. After adjudication and before the appointment of a trustee by the creditors, the Registrar in his capacity of trustee may, on the application of the petitioning creditor, sell or otherwise dispose of any property of the bankrupt which shall be of a perishable nature.

104. Upon the appointment of a creditor's trustee, any receiver or manager of the property or business of the bankrupt shall submit his accounts for examination to such trustee, and for that purpose attend on the trustee, at such reasonable times as he may require.

105. Immediately upon the appointment of a trustee being reported, the Court shall give to the trustee a certificate declaring him to be the trustee, provided he has given such security, if any, as may have been required by the creditors.

106. Omission to pass a resolution under sub-section two Sect. 14. or three of section fourteen of the Act shall not invalidate the appointment of a trustee, and where no security has been specified to be given by the trustee, he shall be deemed to be personally responsible, in the performance of the duties of his office, to the extent of the value of the property of the bankrupt.

107. Where, at the first meeting or any adjournment there- Sect. 14. of, the creditors shall resolve that one or more named persons shall be accepted as the sureties of the trustee, it shall not be necessary for the said persons to justify their sufficiency. .

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116.

108. Where no remuneration has been voted to a trustee, he shall be allowed out of the bankrupt's estate such proper costs and expenses as may be incurred by him in or about the proceedings of the bankruptcy as the Taxing Master or Registrar shall allow.

Sect. 30.

109. Where the creditors shall have failed to appoint the bank, into which the trustee is to pay all moneys received by him, he shall pay them into such bank as the committee of inspection, or where there is no committee, the Court shall appoint.

110. No person shall be entitled as against the trustee to withhold possession of the books of account of the bankrupt, or to claim any lien thereon.

111. Notice of the appointment of the trustee, and of the day for the public examination of the bankrupt, shall be gazetted forthwith, and be inserted in one local paper by the trustee, and he shall send a copy of the notice to each creditor.

Sect. 20.

112. Where a trustee desires to apply to the Court for directions in relation to any particular matter arising under the bankruptcy, he shall file his application, according to the form in the schedule, and the Court shall then hear the application, or fix a day for its hearing and direct the trustee to apply by motion.

113. In case any joint estate of any bankrupts shall be insufficient to pay any costs or charges necessarily incurred in respect of the same, the Court on application of the trustee may order such costs to be paid out of the separate estates of such bankrupts, or one or any of them; and vice versa may order costs necessarily incurred for any separate estate, if the same were incurred with reasonable probability of benefit to the joint estate, to be paid out of such joint estate.

Sect. 25,
par. 3.

114. A trustee shall not be allowed in his accounts any sum paid by him to his attorney for his bill of costs, unless the same shall have been duly taxed as between attorney and client.

115. Where in consequence of a bankruptcy being closed, or of a vacancy in the office of trustee, the Registrar becomes trustee, the attorney (if any) who has theretofore acted in the matter of the bankruptcy shall not be changed unless the Court shall by order, setting forth the reasons for the change, otherwise direct.

Sects. 55 &
58.

116. The taxing officer shall not allow to a trustee any charges for attorney or counsel in attending the Court to make any application unless the sanction in writing of the committee of inspection to their being or having been employed is produced to him, or unless the same has been allowed by the Court as necessary.

117. Where an order of adjudication has been made upon the petition of a secured creditor, who has been admitted as the petitioning creditor to the extent of the balance of the debt due to him after deducting the amount estimated by the creditor, as the value of his security, he shall upon the application of the trustee, made within two months after the date of the order of adjudication, give up the security to the trustee upon the payment to him of the value so estimated, and where the trustee does not so apply within such term he shall be considered to have waived his right to redeem the security by payment of such estimated value. 117-123.
Sect. 6.

118. The trustee shall, within seven days of his allowing or disallowing a proof, file such proof with the Registrar with a memorandum thereon of his allowance or disallowance thereof.

119. Where the trustee is an auctioneer he shall not by himself or any partner act as such in the sale of any of the property vested in him, except with the consent of the committee of inspection, and upon such terms as it may think fit. Sect. 25,
par. 6.

120. Where a creditor desires a meeting of creditors to be held to remove a trustee or a member of the committee of inspection, he shall apply to some member of the committee of inspection to specially summon a meeting for that purpose, and for the purpose of appointing another person to fill the office, by sending a notice to each creditor seven days before the meeting is to be held; and where such member refuses to summon a meeting, or there is no committee of inspection, the creditor may apply to the Court upon an affidavit stating specifically the facts which would appear to justify the removal of such trustee or a member of the committee of inspection, and the Court may direct the Registrar to summon a meeting accordingly, or if it think fit may direct notice to be given to the trustee to show cause why the Court should not remove him. Sect. 83,
par. 4.

121. Where a trustee resigns, dies, or is removed prior to obtaining his release, the creditors shall determine what, if any, remuneration shall be paid for the services which he may have rendered.

122. A trustee desirous of obtaining his release shall apply to the Registrar to fix the time and place upon which he may make application to the Court for such release, and upon such time being fixed he shall summon a meeting of the creditors to consider such application, stating therein the time and place on which the application to the Court will be made. Sect. 51.

123. A trustee applying for a release shall produce to the meeting of creditors a report from the Comptroller upon his accounts.

124—
132.

124. The release of a trustee shall operate as a removal of the trustee, and thereupon the Registrar shall be the trustee.

Sect. 52.

125. Upon the close of a bankruptcy the trustee shall deliver a list of the outstanding property to the Registrar of the Court, who shall realize the property, if practicable, and declare a dividend from the proceeds thereof in the same manner as if he had been the trustee by reason of there being no trustee acting during the continuance of the bankruptcy, as provided by section 83 of the Act.

Sect. 83.

126. Where a trustee shall resign, or be removed from his office, he shall, within four days thereafter, render to the Registrar, to be filed with the proceedings, an account in writing showing what he has done while trustee, and shall duly account for all moneys or property of the bankrupt. If he do not comply with these requisitions within the prescribed time the Court shall enforce obedience thereto.

127. A creditor shall bear the cost of making proof of his debt, unless the Court shall otherwise specially order, and no part of the expense of any competition for the office of trustee shall be paid out of the estate.

Where Registrar Trustee.

Sect. 83.

128. Where the Registrar is trustee of the property of a bankrupt by reason of there being no trustee acting during the bankruptcy, he shall not be required to give security, but his accounts shall, if there be no committee of inspection, be audited by the Comptroller or Treasurer of the Court or other person acting as treasurer, according as the proceeding is in the London Bankruptcy Court or the County Court.

Committee of Inspection.

129. Where the creditors neglect by resolution to fix the quorum required to be present at a meeting of the committee of inspection, the quorum shall be three; or if the number of the Committee be less than three, the quorum shall be the whole number.

130. A resolution of the committee of inspection shall be passed unanimously or by a majority in number of the members present at the meeting.

Dividends.

Sect. 41.

131. Where a dividend is intended to be declared, the trustee shall give reasonable notice thereof to such of the creditors, mentioned in the bankrupt's statement, as shall not have proved their debts, and the notice shall also be gazetted.

132. Notice of a dividend having been declared shall be gazetted by the trustee according to the form in the schedule, and he shall also send a notice to each creditor who has

proved, showing the amount of the dividend, and when and where it is payable.

133—
137.

133. The amount of the dividend may, at the risk of the creditor, be transmitted to a creditor by registered post letter, enclosing a cheque or post-office order, less the cost of remittance, upon his returning the notice to the trustee with the receipt attached to it duly signed, or it shall be paid upon the production of the notice and the receipt to the trustee at the time mentioned in the notice.

134. All bills of exchange or other negotiable securities upon which proof has been made must be exhibited to the trustee before payment of dividend.

135. A creditor may apply for the payment of a dividend Sect. 46. withheld by a trustee by sending or giving to the Registrar and the trustee a notice according to the form in the schedule, and the Court may, if it shall see fit, make an order upon such application for the payment of the dividend without requiring the attendance of the creditor thereat.

136. A creditor who is desirous of giving credit for the Sect. 40. value of his security in order to entitle him to a dividend in respect of the balance of his debt after deducting the assessed value, shall give notice thereof to the trustee, and the value of his security shall be determined in the same manner as the value of the security is to be determined, as prescribed with reference to the balance upon which a secured creditor may vote, and such creditor shall give credit for the value within fourteen days after he shall be called upon by the trustee so to do, unless he shall be out of England, and then within such reasonable time as the trustee may fix, having regard to the means of communication between England and the place where the creditor may be, and in default thereof shall be deemed to be fully secured. If the trustee or any other creditor shall be dissatisfied with the value put on the security, the trustee may require the security to be realized.

137. Where the produce of the estate of a bankrupt is Sect. 45. sufficient to pay twenty shillings in the pound and interest as herein-after mentioned, and to leave a surplus, such surplus shall be paid by the trustee to such bankrupt, his executors, administrators, or assignees; and every such bankrupt shall be entitled to recover the remainder, if any, of the debts due to him; but such surplus shall not be paid until all the creditors who have proved shall have received interest upon their debts to be calculated and paid at the rate and in the order following, viz., all creditors whose debts are by law entitled to carry interest in the event of a surplus shall first receive interest on such debts at the rate of interest reserved or by law payable or proveable thereon, to be calculated from the date of the order of adjudication; and after such interest shall have

138—
145.

been paid, all other creditors who have proved shall receive interest on their debts from such date at the rate of four pounds per centum per annum.

Order of Discharge.

Sect. 48.

138. A bankrupt intending to apply for an order of discharge, shall file an application with the Registrar, who shall thereupon fix the time and place at which the application will be heard. Notice of the time and place fixed for the hearing of the application of the order of discharge shall be gazetted, and also given to the trustee by the bankrupt, twenty-one days before such day.

139. An order of discharge shall be dated of the day on which it is made, and shall take effect on and from the day of its date, and shall be gazetted.

Sect. 19.

140. An order of discharge shall not be granted until after the public examination of the bankrupt under section 19 of the Act.

141. An order of discharge shall not be delivered out until after the expiration of the time allowed for appeal, or if an appeal be entered, until after the decision of the Court of Appeal thereon.

142. A bankrupt desirous of obtaining the assent of his creditors to his applying to the Court for an order of discharge during the continuance of his bankruptcy, shall request the trustee to summon a meeting of his creditors, and thereupon the trustee, upon the deposit of a sufficient sum for costs, shall summon such meeting; where at the meeting the creditors do not so assent no other meeting shall be called for the same purpose until after the lapse of three calendar months.

Appeal.

Sects. 71, 72.

143. An appeal against a decision or order of the Chief Judge in bankruptcy, or a Judge of a County Court, shall be entered with the Registrar of Appeals within and not later than twenty-one days from the said decision or order, by leaving with him a copy of the appeal notice of motion.

144. Upon entering an appeal, a copy of the appeal notice shall be sent forthwith by the appellant, to the Registrar of the Court appealed from, who shall forthwith file the same with the proceedings, and a similar notice shall be delivered by the appellant to each respondent four days before the day on which he intends to move.

145. At or before the time of entering an appeal the party intending to appeal shall deposit with the Registrar of Appeals such sum, not being less than ten pounds and not exceeding forty pounds, as the Court appealed from shall direct, to satisfy, so far as the same may extend, any costs that the

appellant may be ordered to pay, and in the absence of any such direction, the sum deposited shall be twenty pounds.

146—
156.

146. Where there are several respondents in separate interests the Court may, if it shall think fit, direct a separate deposit to be made as to every such respondent.

147. All appeals shall be brought on by motion, and no new evidence shall be received on any appeal unless the Court of Appeal shall so direct; but any of the parties shall be at liberty to bring before the Court of Appeal, by affidavit, the circumstances under which the decision or order appealed from was made.

148. Every affidavit intended to be used upon the hearing of any appeal shall be filed with the Registrar of Appeals, and a copy thereof sent by the appellant to the respondent four clear days before the day appointed for hearing.

149. The Registrar of the Court appealed from shall, upon the application of the Registrar of Appeals, transmit to him the file of proceedings in the matter under appeal.

150. The office for entering bankruptcy appeals to be heard by the Court of Appeal in Chancery shall be closed during the ordinary vacations of the Court of Chancery, and the time during which such office shall be closed shall not be reckoned in the number of days ordered for the entering of appeals to be heard by such Court of Appeal in Chancery.

Affidavits.

151. All affidavits to be used in evidence on motions to the Court shall be divided into short paragraphs, numbered consecutively, and shall be in the first person.

152. Every such affidavit shall state the deponent's name, address, and description, and also what facts or circumstances deposed to are within his knowledge.

153. Where any such affidavit is made by more than one person, the names of all the persons making the affidavit, and the dates when and the places where it is sworn, shall be inserted in the jurat.

154. Any such affidavit not in conformity with the last three preceding rules may be rejected by the Court.

155. An affidavit in which there is any erasure, or which is blotted so as to obliterate any word, or which is illegibly written, or so altered as to cause it to be illegible, or in which there is any interlineation, not duly authenticated by the person before whom it was sworn, may be rejected by the Court.

156. Where an affidavit is made by any person who is blind, or who from his signature or otherwise appears to be

157—
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illiterate, the person before whom the affidavit is sworn shall state in the jurat that the affidavit was read over to the deponent, and that the deponent appeared to understand the same, and made his mark or wrote his signature thereto in the presence of the person before whom the affidavit is sworn.

157. Any affidavit used in any matter of bankruptcy may be sworn as follows:—

- (1.) In the United Kingdom, before a Court having jurisdiction in bankruptcy or a judge thereof or an officer thereof authorized to administer oaths in that Court, or before a person authorized to administer oaths in any of the superior courts of law or equity, or before a justice of the peace for the county or place where it is sworn or made, and in case of proof of debts, before the trustee of the property of the bankrupt.
- (2.) In any place in the British dominions out of the United Kingdom, before any Court, judge, or justice of the peace, or any person authorized to administer oaths there in any Court.
- (3.) In any place out of the British dominions, before a British minister, consul, or vice-consul, or notary public, or before a judge or magistrate, his signature being authenticated by the official seal of the Court to which such judge or magistrate is attached.

Security.

158. Where a person is required to give security, such security shall be in the form of a bond with one or more surety or sureties to the person proposed to be secured.

159. The bond of any person other than a trustee shall be taken in a penal sum to the amount of double the sum in question up to the sum of 1,000*l.*; and where the sum in question exceeds 1,000*l.* in the sum of 1,000*l.* beyond such sum, unless, in either case, the opposite party consents to it being taken for a less sum.

160. Where a person is required to give security he may, in lieu thereof, deposit with the Registrar a sum equal to the sum in question in respect of which security is to be given, and the probable costs of the trial of the question, together with a memorandum to be approved of by the Registrar and to be signed by such person, his attorney, or agent, setting forth the conditions on which the money is deposited.

161. The security of a Guarantee Association or Society may be given in lieu of a bond or a deposit.

162. In all cases where a person proposes to give a bond by way of security, he shall serve, by post or otherwise, on the opposite party and on the Registrar, at his office, notice of

the proposed sureties according to the form set forth in the schedule, and the Registrar shall forthwith give notice to both parties of the time and place at which he proposes that the bond shall be executed, and shall state in the notice, that should the proposed obligee have any valid objection to make to the sureties, or either of them, it must then be made.

163—
171.

163. The sureties shall make an affidavit of their sufficiency according to the form in the schedule, unless the opposite party shall dispense with such affidavit, and such sureties shall attend the Court to be cross-examined if required.

164. The bond shall be executed and attested in the presence of the Registrar, or before a justice of the peace, or an attorney.

165. Where a person makes a deposit of money in lieu of giving a bond, the Registrar shall forthwith give notice to the person to whom the security is to be given of such deposit having been made.

Witnesses.

166. A subpoena for the attendance of a witness capable of giving evidence concerning any matter in the Court, before or after adjudication, shall be issued by the Court at the instance of a trustee, a creditor, a debtor, or any respondent in any matter, with or without a clause requiring the production of books, deeds, papers, and writings in his possession or control, and in such subpoena the name of only one witness shall be inserted. A subpoena may be issued in blank as at common law. Sects. 65, 66,
and 96.

167. A sealed copy of the subpoena shall be served personally on the witness by the person at whose instance the same is issued, or by his attorney, or by an officer of the Court, within a reasonable time before the time of the return thereof.

168. Service of the subpoena shall, where required, be proved by affidavit.

169. The Court may in any matter limit the number of witnesses to be allowed on taxation of costs, and their allowance for attendance shall in no case exceed the highest rate of the allowances mentioned in the scale in the schedule.

170. The costs of witnesses, whether they have been examined or not, may, in the discretion of the Court, be allowed.

Discovery of Bankrupt's Property.

171. Every application to the Court under section 96 of S. ct. 96. the Bankruptcy Act, 1869, shall be in writing, and shall state shortly the grounds upon which the application is made; and where the application is not made on behalf of the trustee,

- 172— the grounds upon which the application is made shall be
178. verified by affidavit.

*Application for Discharge during three years after close of
Bankruptcy.*

Sect. 54. 172. Where a bankrupt who has not obtained his order of discharge shall, after the close of the bankruptcy, pay or tender to the several creditors who have proved their debts, a sum, which with the dividend paid previous to the close of the bankruptcy shall make up a dividend of not less than ten shillings in the pound, and shall desire to obtain an order of discharge, he shall file with the Registrar a statement, verified by affidavit, of the sums so paid or tendered, and when and where paid, with the receipts of the creditors or their representatives for the sums respectively paid to them written on or attached thereto.

Form 63. 173. The Registrar shall appoint a day for the hearing of the application for the order of discharge, and a notice thereof shall be gazetted twenty-one days before the day appointed, and a copy thereof shall be sent by the Registrar to each creditor who has proved or claimed a debt under the bankruptcy.

174. Where a creditor cannot be found or is dead; and no representative is known, the bankrupt may deposit the money payable to such creditor with the Registrar.

Form 64. 175. At the hearing of the application, an order of discharge may be granted, if the Court is satisfied that a sum equal to a dividend of ten shillings in the pound has been paid to all the creditors who proved their debts, unless, on a representation of creditors under section forty-eight of the Act, the Court thinks it just to suspend or withhold such order.

Arrests, Commitments.

Sect. 99. 176. A warrant of seizure or a search warrant or any other warrant issued under the provisions of the Act shall be addressed to such officer of the London Court of Bankruptcy, or to such High Bailiff of any County Court, whether such County Court has jurisdiction in bankruptcy, or not, as the Court may in each case direct.

Sect. 86. 177. Where a bankrupt is arrested under a warrant issued under section 86 of the Act, he shall be safely kept by being lodged within the prison, to the keeper of which the warrant is, amongst others, addressed; and any books, papers, moneys, goods, and chattels in the possession of the bankrupt, which may be seized, shall be lodged with the trustee of the property of the bankrupt forthwith.

178. An application to the Court to commit any person for contempt of Court shall be supported by affidavit, and be filed in the Court in which the proceedings are.

179. Upon the filing of such application the Registrar shall fix a time and place for the Court to hear the application, and shall issue a notice to be served by an Officer or High Bailiff of the Court personally on the person sought to be committed three days at the least before the day of hearing the application, unless the Court shall, by order upon good cause shown, direct service of the notice to be made in some other manner, in which case it shall be served together with a copy of the order in the manner so directed.

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Setting aside Pay, &c.

180. Where an order of Court is made under section 89 of Sect. 80. the Act the Registrar shall give to the trustee a sealed copy of the order, who shall submit the same to the chief of the department under which the pay, half-pay, salary, emolument, pension, or compensation is enjoyed, for the purpose of his consent to the order being written thereon.

181. Where a trustee intends to apply to the Court for an Sect. 90. order for payment by a bankrupt of a portion of his salary or income under section 90 of the Act, he shall give notice to the bankrupt of his intention, of the time and place fixed for the hearing of his application, and that the bankrupt is at liberty to attend and show cause against an order being made on the application.

182. Where an order has been made for the payment by a Sect. 90. bankrupt, or by his employer for the time being, of a portion of his income or salary, the bankrupt may, upon his ceasing to receive a salary or income of the amount he received when the order was made, apply to the Court to rescind the order, or to reduce the amount ordered to be paid by him to the trustee.

Enforcement of Debt against undischarged Bankrupt.

183. Where after the expiration of a period of three years Sect. 54, from the close of a bankruptcy, in which the bankrupt has par. 2. not obtained an order of discharge, an application is made to the Court for its sanction to the enforcement by a creditor, of the payment of the balance remaining unpaid of a debt proved under the bankruptcy, the creditor shall file a statement, verified by affidavit, showing the dividend paid under the bankruptcy, the balance remaining unpaid, and the property against which he seeks to enforce payment, and that such property is the property of the bankrupt, and the Registrar shall thereupon appoint a time and place for the hearing of the application and direct notice of the time and place appointed for the hearing, according to the form in the schedule, to be served by an officer or a bailiff of the Court, personally on the bankrupt, or at his usual or last known place of residence or business.

184. At the hearing of the application service of the notice on the bankrupt shall be proved, unless he appears, and the

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Court if it think fit may refuse the application, or adjourn the hearing to some other day, and in such latter case shall direct the creditor to cause a notice to be gazetted and inserted in one local paper, seven days before the day to which the hearing is adjourned, according to the form in the schedule.

185. At the adjourned hearing the creditor shall produce a copy of the *Gazette* and of the paper in which the notice was published, and the Court may then hear all persons claiming to be creditors of the debtor before or since the close of the bankruptcy, and make such order in the matter as it thinks fit, or adjourn the hearing for further evidence.

Costs.

186. The Court may in all matters before it award such costs as to it shall seem fit and just; and all costs so awarded by the London Bankruptcy Court shall be recoverable in the same manner as costs awarded by a rule of any of the superior courts of common law at Westminster may be recovered, and all costs so awarded by a County Court shall be taxed and recoverable in the same manner as costs ordered to be paid in any such Court in any action or suit.

187. Every order for payment of money and costs, or either of them, shall be sealed with the seal of the Court, and be signed by a Registrar, and shall be forthwith filed with the proceedings.

188. All costs shall be in the discretion of the Court, and shall be paid by such persons as the Court shall order, and every such order for payment of costs may be enforced by execution.

189. The costs directed by any such order to be paid shall be taxed on production of an office copy of such order, and the allocatur being duly stamped shall be signed and dated by the Master or Registrar taxing the costs.

Trial by Jury.

Sect. 72.

190. Where upon any application to the Court for its decision on any question, the Court, either on its own motion or on the application of any person, shall have directed that a question of fact be tried by a jury, such question of fact shall be reduced into writing and submitted to the judge for his approval, and shall, when approved, be signed by the judge and filed, and shall be called the Record for Trial; but the Court shall have power to allow any amendment thereof at any time upon such terms as it may think fit.

191. Upon filing the record with the Registrar within three days after the above approval has been given, the Registrar shall fix the time and place at which the trial shall be had.

192. An order of the London Court of Bankruptcy for the trial of a question of fact before a jury shall state whether it shall be before a special or a common jury, but the order may be amended by the substitution of one jury for the other, upon such terms as the Court may think fit.

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193. Where such trial is to take place by a common jury before the London Court of Bankruptcy, the person aforesaid shall, fourteen days at least before the day fixed for such trial, apply to the Court for an order for the Sheriff to summon a common jury for such trial, which order shall be according to the form in the schedule, and shall be served upon the sheriff by the applicant seven days before the trial.

194. Where the London Bankruptcy Court has ordered the trial to be before a special jury, the person aforesaid shall, fourteen days at least before the day fixed for the trial, apply to the Court for an order for the Sheriff to summon a special jury, which order shall be according to the form in the schedule, and shall be served on the Sheriff and on the opposite party by the said person seven days before the trial.

195. Where an order has been made by the London Bankruptcy Court for a special jury, the Sheriff shall, in addition to the special jury, summon twelve common jurymen for such trial, in order that in the event of a sufficient number of special jurors not being in attendance to make a jury, a tales may be directed by the Court.

196. The order shall be returned by the Sheriff to the person who shall have served the same, together with his return and the jury panel, and such order and jury panel shall, two days at least before the day of trial be filed with the Registrar.

197. The sum to be deposited in the hands of the Under-Sheriff shall be 5*l.* in case of a common jury, and 16*l.* in case of a special jury; and if such sum shall be more than sufficient to pay the expenses of the jury, the surplus shall forthwith be returned to the person at whose instance the jury has been summoned; and if such sum shall not be sufficient to pay such expenses, the deficiency shall forthwith be paid by such person to the Under-Sheriff. And the Under-Sheriff shall pay and account for the money so deposited according to the scale following, that is to say:—

	£	s.	d.
Fee to common jurymen, per diem . . .	0	5	0
For each special jurymen, per diem . . .	1	1	0
For summoning each jurymen whose residence shall not be more than five miles distant from the office of the Under-Sheriff . . .	0	2	6
For summoning each jurymen whose residence does exceed five miles of such distance	0	5	0

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198. The mode and practice of proceeding in the London Bankruptcy Court to nominate and reduce a special jury, shall be the same in all respects as are now or for the time being shall be in force in the superior courts of common law at Westminster, when a special jury is ordered to be struck, or as near thereto as the practice of that Court will admit.

199. Where there is not a sufficient number of special jurymen in attendance to make such jury, the same shall be made up from the common jurymen in attendance unless the Court shall otherwise direct.

200. The Registrar of Appeals shall attend on a trial by jury, and the jurors shall be called and sworn by him. The witnesses shall be called and sworn by the Usher of the Court.

201. Upon every such trial in the London Bankruptcy Court the addresses to the jury or to the Court, as the case may be, shall be regulated as follows:—The party who begins, or his counsel or attorney, shall be allowed, in the event of his opponent not announcing at the close of the case of the party who begins, his intention to adduce evidence, to address the jury a second time at the close of such case, for the purpose of summing up the evidence; and the party on the other side, or his counsel, shall be allowed to open the case, and also to sum up the evidence (if any); and the right to reply shall be the same as at present in force in the superior courts of common law at Westminster on trials at Nisi Prius.

202. Where the jury retire from the Court to consider their verdict, they shall be taken charge of by an officer of the Court; but previously thereto the Registrar of the Court shall swear such officer according to the form in the schedule.

203. The verdict or finding of the jury, as the case may be, shall be endorsed by the Registrar on the Record for Trial, and with the jury panel and the names of the jurors, who were sworn, endorsed thereon.

Sittings of a County Court.

204. The place of sitting of each County Court in matters of bankruptcy shall be the town in which the Court now holds or may hereafter hold its sittings for the common law business of the Court, under the provisions of the County Courts Act, 1846.

205. The times of the sitting of each County Court in matters of bankruptcy, shall be those appointed for the transaction of the general business of the Court, unless the Judge of any such Court shall otherwise order, and shall appoint a

special day or days for a sitting of the Court in matters of bankruptcy.

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Stamps.

206. Every officer of the Court who shall receive any document to which an adhesive stamp shall be affixed, shall immediately upon the receipt of such document deface the stamp thereon, by writing partly on the stamp and partly on the document the name of the debtor; and no such document shall be filed or delivered until the stamp thereon shall have been defaced in manner aforesaid, and it shall be the duty of the party presenting or receiving such document to see that such defacement has been duly made.

Sect. 68.

Examination of Bankrupt or Witness.

207. If the Court shall in any case be of opinion that it would be desirable that a person should be appointed to take down the evidence of the bankrupt, or of any witness examined at any public sitting or private meeting under the Act, in shorthand or otherwise, it shall be competent for the Court to make such an appointment; and every person so appointed shall be paid a sum not exceeding one guinea per day, and where the Court appoints a shorthand writer a sum not exceeding eightpence per folio of ninety words of any transcript of the evidence that may be required, and such sums shall be paid by the party at whose instance the appointment was made, or out of the estate, as may be directed by the Court.

Sect. 19.

Amendments.

208. In any proceeding before the Court, the Court may allow any amendments which in the judgment of the Court or Registrar ought to be allowed on such terms as may be ordered.

Rules relating to the Business of the London Bankruptcy Court.

209. The Chief Judge, with the approval of the Lord Chancellor, shall regulate the sittings and vacations of the London Bankruptcy Court.

210. During vacation or during the illness or during the absence from any reasonable cause, of the Chief Judge, the Senior Registrar in attendance for the time being, has by virtue of these rules, delegated to him all the powers and duties of such Chief Judge, but such Registrar shall forthwith give notice of his so acting to the Lord Chancellor.

211. Any Registrar of the London Bankruptcy Court may act for any other Registrar thereof in any matter pending in the said Court.

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212. The Registrar acting for the Chief Registrar in matters of trust deeds, on or before the thirty-first day of December, 1869, shall be the Registrar of Appeals of the London Bankruptcy Court, and shall also attend the Court of Appeal in Chancery sitting in Bankruptcy.

213. In the event of the abolition of the office of Chief Registrar, the Senior Registrar for the time being shall perform all the duties performed by the Chief Registrar, with the assistance of such of the officers now employed in such office as the Chief Judge shall direct.

214. The Chief Registrar's office shall be at the Court of Bankruptcy in London, and shall be kept open daily, throughout the year, from ten till four o'clock except on Sunday, Christmas Day, Good Friday, the Saturday after Good Friday, Monday and Tuesday in Easter week, or any day appointed for a public fast or thanksgiving, and except also on Saturdays when the office may be closed at two o'clock.

215. The roll or book heretofore kept by the Chief Registrar, in which are enrolled the names of all attorneys entitled to practise in the Court of Bankruptcy shall be continued to be kept, and in it the names of any attorney hereafter entitled to practise in the Court shall be enrolled.

216. The Chief Registrar shall continue to keep a book in alphabetical order, for the purposes after mentioned, and the same shall be publicly kept in the London Bankruptcy Court to be there inspected by any enrolled attorney. Every attorney to be enrolled in the London Bankruptcy Court, shall, at the time of his signing the book or roll above mentioned, enter in such alphabetical book his name and place of abode or business where he may be served with notices, summonses, orders, and rules in matters depending in the Court; and as often as any attorney shall change his place of abode or business, he shall make the like entry thereof in the said book; and all notices, summonses, orders, and rules which do not require personal service shall be deemed sufficiently served on such attorney if a copy thereof shall be left at the place last entered in such book, with any person resident at or belonging to such place; and if any attorney shall neglect to make such entry, then the fixing up of any notice, or the copy of a summons, order, or rule for such attorney in the office of the Chief Registrar, shall be deemed as effectual and sufficient as if the same had been served at such place of residence or business as aforesaid.

217. In case the place of abode or business of any attorney be not within a circuit of five miles from the General Post Office in London, such attorney shall appoint and enter in the said alphabetical book, some convenient place within a three miles circuit of the General Post Office, where such notices,

summonses, orders, and rules as aforesaid may be served on him subject to the regulations aforesaid.

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218. Every bankruptcy petition shall be filed in the office of the Chief Registrar, and forthwith after the filing thereof shall be directed to the registrars of the Court (other than the Registrar of Appeals) in rotation, and the Registrar to whom such petition is so directed, shall be the trustee of the estate and effects of the bankrupt until such time as the appointment of a trustee by the creditors shall have been certified by the Court.

219. A second petition against the same debtor, either alone or jointly with any other person or persons, shall be directed to the Registrar, who shall have acted in the matter of the first petition, or to whom the same shall have been directed.

220. Where no trustee is appointed by the creditors at the first meeting, or during a vacancy in the office of trustee, except as otherwise hereinbefore provided, the solicitors who have heretofore acted as official solicitors in cases in which no creditor's assignee was chosen shall act for any Registrar in his capacity of trustee of the property of a bankrupt in all cases in which their services shall be required by the Registrar.

221. With respect to business in the new London Bankruptcy Court, the official assignees, messengers, and ushers of the old London Bankruptcy Court and their clerks shall, until released from the performance of their duties or their office abolished, be severally attached to such of the registrars, and perform such duties, as the Chief Judge shall from time to time direct.

222. All office copies to be made in the London Bankruptcy Court, shall, until otherwise directed by the Chief Judge, be made by the person who has heretofore made, examined, and delivered out office copies.

223. The bills to be taxed by the Masters shall be all bills of costs, charges, fees, and disbursements in matters under the Act (as heretofore have been taxed by the said Masters), and all other taxable bills in other matters in which the London Bankruptcy Court may exercise jurisdiction, and such taxable bills as may be specially referred to them for taxation by any County Court, subject to the revision of the Court.

224. The office of the Masters shall be at the Court of Bankruptcy in Basinghall Street, and shall be open for the transaction of business daily, from ten o'clock in the forenoon until four o'clock in the afternoon, except on such days and during such periods as the office of the Chief Registrar shall be closed.

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233. 225. The business of the Masters shall be transacted by them in person.

226. In all cases where writs of execution may be issued out to enforce an order for payment of money and costs, or either of them, the same shall be sealed with the seal of the London Bankruptcy Court, and be issued by the Chief Registrar, on production of an office copy of the order for payment and where the order comprises costs on production of the allocatur.

227. At the time of issuing any writ of execution the attorney causing the same to be issued shall file a præcipe thereof with the Chief Registrar according to the form in the schedule.

228. The Chief Registrar shall file and keep every such præcipe, and shall keep a book in which he shall enter the same, with an index referring alphabetically to the names of the persons against whom writs are issued.

229. Writs of execution shall be according to the forms in the schedule, or as near thereto as the circumstances of the case may require, and such writs, when sealed, shall be delivered to the sheriff or other officer to whom the execution of the like writs issuing out of the superior courts of common law at Westminster belongs, and shall be executed by such sheriff or other officer as nearly as may be in the same manner in which he doth or ought to execute such like writs, and for the execution of such writs such sheriff or other officer shall not take or be allowed any fees other than such as are or shall be from time to time allowed by lawful authority for the execution of the like writs issuing out of the superior courts of common law at Westminster.

230. Writs of execution shall be tested in the name of the Chief Judge and of the day when actually issued, and be made returnable immediately after the execution thereof, before the Court.

231. The amount actually intended to be levied or extended, and the name, occupation, and address of the person against whom the writ is issued, and the name and residence, or place of business, of the attorney issuing the same (if any) shall be endorsed on every writ of execution.

232. On the filing of a return to a former writ that goods have been seized but not sold, a writ of venditioni exponas may be issued.

233. On execution of the writ, or before execution, if so ordered by the Court, every writ shall be forthwith returned to the said Court, by filing the same (with the proper return endorsed) with the Chief Registrar, by whom such writ and return shall be filed of record, and the fact and date, and

substance of the return, shall be forthwith entered in the præcipe book.

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234. On satisfaction by levy or otherwise, in whole or in part, the party on whom the order is made may, on delivery of a search stamp, cause such satisfaction to be entered on the order for payment.

235. Unless such satisfaction shall appear by the return of the writ, or shall be admitted by the party in whose favour the order shall be made, or his attorney, application must be made to the Court to order such entry of satisfaction.

236. The Court of Bankruptcy shall, on proper application, exercise such and the same powers of amendment of writs of execution, and the indorsement thereon, and the præcipes thereof, in cases where such powers may be reasonably exercised, and on the same terms as to payment of costs or otherwise, as the superior courts of common law at Westminster are in the habit of exercising.

Duties of Comptroller, and the Books and Accounts to be kept by Registrars and Trustees.

237. The Comptroller shall keep a book entitled "The Register of Bankruptcies in the London Court," according to the form in the schedule, and another book entitled "The Register of Bankruptcies in the County Courts," according to the form in the schedule, with such additional headings as he may find necessary. Sect. 55.

238. The Comptroller shall cause an entry to be made in the proper register of every gazetted notice applicable or defined by the headings, and shall cause such registers to be examined on every Monday and Thursday with the then last published Gazette, so as to insure that all the notices published therein have been duly entered in such registers.

239. The registers shall be open for searches by the public at all hours that the office of the Comptroller is open, upon a request in writing with a search stamp affixed thereon being lodged.

240. The Chief Registrar of the London Bankruptcy Court, and every Registrar of a County Court having jurisdiction in bankruptcy, shall keep books according to the forms in the schedule, and the particulars given under the different heads in such books shall be entered forthwith after the proceedings shall be had.

241. The Registrars shall make and transmit such extracts from such books as the Comptroller may from time to time require to be made and transmitted to him.

242. The trustee shall keep a book to be entitled "The Record," according to the form in the schedule, in which he

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shall record all minutes, all proceedings had, and resolutions passed at any meeting of creditors, or of the committee of inspection, statement of bankrupt's affairs, reports, and all proceedings necessary to give a correct view of the management of the bankrupt's property, but he shall not be bound to insert in the record any document of a confidential nature (such as the opinion of counsel on any matter affecting the interest of the creditors), nor need he exhibit such document to any person other than the members of the committee of inspection.

243. The trustee shall also keep a book to be entitled the "Estate Book," according to the form in the schedule, in which he shall enter from day to day the receipts and payments made by him.

244. The Record and the Estate Book may be inspected by the committee of inspection and the creditors or their agents.

245. The trustee shall submit the Record and Estate Book, together with a copy of the latter, to the committee of inspection at the quarterly meeting required by section twenty of the Act.

Sect. 25.

246. The committee of inspection shall audit the Estate Book, and certify therein under their hands the day on which the said book was audited, and shall in like manner certify the copy of the said book.

247. The trustee shall, forthwith after the said audit shall have been held, transmit to the Comptroller in Bankruptcy the copy so certified, adding thereto his certificate that it is the copy certified by the committee. He shall also forward therewith an office copy of the statement of affairs filed by the bankrupt, showing thereon in red ink the difference between the sums stated by the bankrupt and the sums realized or estimated by the trustee to be realized, and shall also state the reasons why any property not realized has not been realized.

248. Every trustee, before calling a meeting of the creditors to consider an application to be made by him to the Court for his release, shall apply to the Comptroller for a report on his accounts, and the Comptroller shall make such report and transmit it to the trustee, who shall produce the same at such meeting and to the Court when making such application.

249. Upon a trustee resigning, or being released or removed from, his office, he shall deliver over to the Registrar of the Court all books kept by him and all other books, documents, papers, and accounts in his possession in any way relating to the office of trustee.

250. Each trustee shall, within fourteen days after the 31st day of December in each year, transmit to the Comptroller a statement according to the form in the schedule of every bankruptcy in which he is a trustee, and the Comptroller shall cause the returns so made to be regularly bound up and preserved, according to alphabetical order of the Courts in which the proceedings were had, in volumes to be kept at all times in his office, with an index thereto framed by him, and which volumes may be searched by the public; and any trustee who shall fail to make such return may be removed from his office by the Court at the instance of any one creditor, or of the Comptroller, or be subject to such order and to such costs as the Court may think proper to make.

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Sect. 56.

251. The Comptroller shall take cognizance of the conduct of trustees, and in the event of any trustee not faithfully performing his duties, and duly observing all the requirements imposed on him by statute, rules, or otherwise, relative to the performance of his duties, or in the event of any complaint being made to the Comptroller by any creditor in regard thereto, he shall inquire into the same, and, if not satisfied with the explanation given, he shall report thereon to the Court, which after hearing the trustee may remove him from his office, or otherwise make such order in the matter as the justice of the case may require.

*Proceedings for Liquidation by Arrangement or Composition
with Creditors.*

Sections 125 and 126.

252. Proceedings under these sections shall be instituted by the debtor by petition and affidavit thereto annexed according to the forms given in the schedule.

253. The Court having jurisdiction in such proceedings shall be the Court to which a bankruptcy petition against the debtor could be presented.

254. The first general meeting shall be summoned, to be held at the place mentioned in the affidavit filed with the petition (subject to such place being changed by order of the Court, as hereinafter provided), and the time of meeting shall be at a stated hour between 10 a.m. and 5 p.m. on a day within one calendar month from the presentation of the petition, unless the Court in any particular case shall otherwise order.

255. The first general meeting of creditors shall be summoned by notice according to the form in the schedule.

256. All first general meetings shall be summoned as follows:—

A sufficient number of forms of such notice, duly signed,

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addressed, and stamped for post, shall be delivered to the Registrar, together with a request and list of creditors according to the form in the schedule, and such list may be added to, or additional requests and lists be filed, as circumstances may require. Every request shall bear a stamp calculated at the rate of threepence for each notice required to be sent. The Registrar shall cause the notices to be checked with the list or lists delivered to him, and to be sealed with the seal of the Court and to be posted to the creditors, and the person posting the same shall forthwith make and file an affidavit, exhibiting a form of notice, and stating that he had posted similar notices to the persons mentioned in the lists delivered to the Registrar, and stating also the date and place of posting.

257. The debtor shall also deliver to the Registrar a notice according to the form in the schedule to be gazetted seven days at least before the meeting is to be held.

258. Notices summoning any first general meeting shall be posted at least 14 days before the day on which the meeting is to be held.

259. Upon sufficient cause proved to the satisfaction of the Court by the debtor or by any creditor, either *ex parte* or otherwise, the Court may order and direct the place of any general meeting to be changed, provided application be made in such time as will allow notice of the change to be given to the creditors, as herein-after directed. Any order so made by the Court shall be according to the form in the schedule, and a copy thereof shall be gazetted forthwith, and notice thereof shall be given by the Registrar by sending by post, on or before the eighth day prior to the meeting, a sealed office copy of the order of the Court addressed to the several creditors, and to the debtor. The expense of and incident to such order and despatching copies thereof to the creditors as aforesaid shall be borne and paid in such manner as the Court shall direct, and in case of non-compliance the copies of the order shall not be sent, but the meeting shall be held as originally summoned.

260. The Court may at any time after the presentation of a petition restrain further proceedings in any action, suit, execution, bankruptcy petition, or other legal process against the debtor or his estate in respect of any debt provable; or it may allow such proceedings, whether in progress at the filing of the petition or subsequently commenced, to proceed upon such terms as the Court may think just. The Court may also at any time after presentation of the petition appoint a receiver or manager of the property or business of the debtor, or of any part thereof, and may direct immediate possession to be taken of such property or business or any part thereof.

261. Any receiver or manager so appointed shall enter upon and act in the performance of his office at such time and in such manner and to such extent as the Court may from time to time direct.

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262. A trader shall state in his petition the estimated amount of the debts owing by him to his creditors, and where no receiver or manager has been appointed by the Court, a majority in value of such creditors may at any time prior to the passing of the special or extraordinary resolution, as the case may be, nominate and appoint a receiver or manager of the trade effects or business of the debtor, or any part thereof according to the form in the schedule. Where any such receiver or manager has been so appointed he shall investigate the state of the debtor's affairs, and report thereon to the general meeting of creditors. The nomination and appointment of any such receiver shall be confirmed by the Court upon summary application in any case in which the debtor refuses to give possession or control to the receiver or manager so appointed. Any such nomination paper shall be in duplicate, and may be signed by the creditors in their individual or partnership names, or by some person who shall state in his signature that he does so by procuration on the creditor's behalf. The signatures or debts need not be verified further than by the affidavit of one of the three principal creditors signing the nomination paper (or a partner in the firm of one of them) according to the form in the schedule, and such affidavit shall be filed in Court with one of the nomination papers. If any receiver or manager has been appointed by the Court, the nominee of the creditors shall be forthwith substituted in his place, and the Court shall order accordingly.

263. Where a receiver or manager has been appointed the Court may at any time cancel his appointment by consent of the debtor and of the creditor or creditors (if any) upon whose application the appointment was made, and of any creditor or creditors whose proceedings may have been restrained as aforesaid, or if the Court shall see fit.

264. Where a receiver or manager has been appointed he shall be entitled to the custody of the books and effects of the debtor, and the debtor or any person having the previous custody thereof on his behalf shall forthwith deliver the same to the receiver.

265. The receiver or manager shall at all times permit the debtor or any of his creditors or their agents to have access to and inspect the debtor's books of account.

266. Where proceedings have been instituted for liquidation or composition the Court may adjudicate the debtor bankrupt if in the opinion of the Court the property of the debtor cannot be sufficiently protected by the exercise of the

267—
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power herein-before given to restrain suits and actions, and the appointment of a receiver or manager ; but in any such case all proceedings under such order of adjudication shall be stayed immediately upon the making thereof, and until the creditors shall have passed some special or extraordinary resolution in reference to the liquidation or composition, and in the event of any such resolution being duly passed the adjudication shall be forthwith annulled.

267. In the event of any neglect on the part of the creditors to pass such resolution, the Court may, on the application of any of the creditors, and after notice to the debtor, make an order of adjudication against the debtor, or direct the bankruptcy to be proceeded with, as the case may be.

268. The chairman of the first general meeting shall be elected by a majority of the persons present thereat claiming to be or to represent creditors. The chairman of any subsequent general meeting shall be elected by a majority in value of the creditors present or represented thereat who have proved their debts.

269. Creditors may prove their debts and appoint proxies as in bankruptcy.

270. All debts which would have been provable in bankruptcy had the debtor been adjudicated bankrupt at the date of the institution of the proceedings shall be provable under any such proceedings.

271. All proofs and proxies intended to be used at any general meeting, and not previously filed, shall be handed into the chairman of the meeting. Any objection thereto shall be marked thereon by the chairman, and shall be dealt with by the Registrar on the resolution being presented to him for registration.

272. A secured creditor, unless he shall have realized his security, shall, previously to being allowed to prove or vote, state in his proof the particulars of his security and the value at which he assesses the same, and he shall be deemed to be a creditor only in respect of the balance due to him after deducting such assessed value of the security. In cases of liquidation by arrangement any secured creditor so proving shall be bound to pay over to the trustee the amount which his security shall produce beyond the amount of such assessed value, and the trustee shall be entitled at any time before realization of such security by the creditor to redeem the same upon payment of such assessed value. The proof of any such creditor shall not be increased in the event of the security realizing a less sum than the value at which he has so assessed the same.

273. Where any creditor shall desire to retire from any

meeting and not to be considered as present, he may withdraw his proof without prejudice to his again proving his debt on any subsequent occasion.

274—
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274. The debtor shall produce to the first general meeting, and also, in case there be any, to the second general meeting, a statement showing the whole of his debts and assets, and the names and addresses of the creditors to whom such debts respectively are due. The name of each creditor in such statement shall be numbered consecutively, and the list of creditors whose debts do not exceed 10*l*. shall be separated from and follow after the list of those creditors whose debts exceed that amount. The debtor's statement of affairs shall be as near as may be in the form required in bankruptcy.

275. The resolution passed at the first general meeting (or first and second general meetings, as the case may be) shall determine whether the affairs of the debtor are to be liquidated by arrangement and not in bankruptcy, or whether any and what composition shall be accepted in satisfaction of the debts due to the creditors from the debtor, or it may reject either of such modes of arrangement. The resolution may declare to whom the registration of the resolution and the debtor's statement of affairs shall be entrusted, and the original resolution and statement shall forthwith be delivered accordingly to the person so appointed, and in the event of no such declaration being made in the resolution the same shall be registered by the debtor. Only such resolutions as are reduced into writing and are signed by or on behalf of the statutory majority of the creditors assembled at a meeting shall be taken cognizance of by the Court, but the signatures of such creditors may be subscribed subsequently to the meeting, but prior to the filing or registration of the resolution.

276. The chairman shall be bound forthwith to deliver to the person, if any, so appointed, or, in default of such appointment, to the debtor, every declaration or affidavit for proof of debt and proxy paper of what nature or kind soever, and whether in due form or otherwise, which shall have been received at the general meeting or meetings, and also the debtor's statement of affairs, and in default thereof may be summoned before the Court, and the Court may make such order in the matter as it shall think fit.

277. In the event of a liquidation by arrangement being resolved upon at any general meeting, and no trustee with or without a committee of inspection being then appointed, a subsequent meeting shall be held at such time and place, at an interval of not more than a week, as shall be appointed by the resolution, or in default of any such subsequent meeting being so appointed, the same shall be held on the same day in the following week, at the same time and place. No notice

278—
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of any such subsequent meeting need be given to the creditors.

278. In cases of liquidation by arrangement the general meeting shall by special resolution declare what security, if any, shall be given by the trustee, and what remuneration, if any, the trustee shall receive, or they may resolve to leave his remuneration to the committee of inspection, or to a subsequent general meeting.

279. Where the creditors at the first general meeting duly pass a resolution that a composition shall be accepted in satisfaction of the debts due to them from the debtor, they shall specify in their resolution the amount of the composition and the instalments and dates at which the same shall be payable, and they may name some person as trustee for receipt and distribution of the composition and any negotiable securities which may be given for the same.

280. Instead of specifying by their resolution the security to be given the creditors may resolve that the composition or some part or instalment thereof shall be secured in such manner as may be approved by a creditor or creditors to be named by the resolution.

281. The extraordinary resolution may provide that the terms of the composition be embodied in a deed between such parties and containing such covenants for payment of the composition, and for protecting and releasing the debtor, and such other covenants and such provisions for securing the composition either by assignment of property, or by inspection of the debtor's business or otherwise, as the nature of the case may require, and as the resolution may specify in particular or general terms.

282. Where, at the first general meeting, a resolution has been passed, resolving that a composition shall be accepted in satisfaction of the debts due to the creditors from the debtor, such resolution shall be filed with the statement of the debtors' affairs, proofs, and proxies within three days, and another general meeting shall be appointed to be held at an interval of not less than seven days nor more than fourteen days from the date of the meeting at which the resolution was first passed. The second general meeting shall be held at the same place as the first general meeting unless the resolution at such first general meeting shall have otherwise directed. Notice thereof according to this form in the schedule shall be given to every creditor in manner provided with respect to first general meetings, with this addition, that the notice to every creditor who was not present or represented at the first general meeting shall be sent by registered post letter. Such notices shall be sent on or before the sixth day prior to the day on which the second meeting is appointed to be held. In the event of notice not being requested to be

sent by the debtor or his attorney on the sixth day prior to the second meeting, any creditor may file a similar request, desiring the Registrar to forward the notices summoning the second meeting; and in the event of any meeting being so summoned it shall be sufficient if the notices are signed by the Registrar and sealed, and are posted on the third day prior to the meeting.

283—
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283. At the second general meeting of creditors, the creditors assembled may confirm the resolution passed at the first general meeting, or they may pass a special resolution that the affairs of the debtor are to be liquidated by arrangement and not in bankruptcy.

284. The person to whom the registration of the special or extraordinary resolution may have been entrusted, or the debtor or his attorney, as the case may be, shall file the same in Court, together with the debtor's statement of affairs and all proofs and proxies, within three days after he shall have received the same, or in default thereof shall be summoned before the Court, and some person able to depose thereto shall verify and identify the resolutions, statement, proofs, and proxies so filed as being the whole of the resolutions, statement, proofs, and proxies come to and produced at the meeting or meetings when such special or extraordinary resolutions were passed.

285. In cases of proceedings for liquidation, by arrangement or composition, instituted by partners, separate meetings of the different classes of creditors shall be held; thus: if the partnership consists of A., B., and C., a meeting of the joint creditors of A., B., and C. shall be first held, and separate meetings of the separate creditors of A., B., and C. shall be held at a date or time subsequent to the meeting of the partnership creditors. The joint creditors may come to such resolution as they may think fit with regard to the joint estate. The separate creditors may also come to such resolution as they may think fit as regards the liquidation of the estate of their individual debtor, but in the event of their determining upon his bankruptcy, or the liquidation of his estate by arrangement, they shall choose the same trustee, if any, as has been or shall be appointed by the joint or partnership creditors, but they may appoint a committee of inspection from their own body, if they think fit, or they may adopt the committee (if any) appointed by the joint or partnership creditors. In the event of the separate creditors of any such debtor agreeing to accept a composition, in cases where the joint creditors have resolved on a liquidation by arrangement, the assets of such separate debtor shall be made available by the trustee for or towards the payment thereof, in such manner as the Court shall direct and approve, and any surplus of such separate estate remaining in the hands of the trustee, after payment of or provision for such

286— composition, and all proper costs incurred in connection
290. therewith, shall be deemed partnership assets. If in any such case the separate debtor shall be a member of more than one firm, the surplus of his separate estate shall be applied in such manner as the Court may direct.

286. If the petition be by partners, and any two or more of such partners constitute a separate and independent firm, the creditors of such firm may likewise come to a separate resolution as regards the liquidation of such minor partnership estate, and where any surplus shall arise upon the liquidation thereof, the same shall be carried over to the separate estates of the partners in such minor firm according to their respective rights therein.

287. In cases of proceedings for or towards liquidation by arrangement or composition by an individual debtor, his creditors and debts shall be deemed to be and include not only those creditors to whom or those debts in respect of which he is individually responsible, but also those creditors and debts to whom or in respect of which he is also responsible jointly with any other person or persons; and the statutory majority required for the purpose of any resolution shall be a collective majority of the whole of such joint and separate creditors assembled at any meeting. In any such last-mentioned proceedings the terms of the resolution as regards joint and separate creditors need not be identical, and, if so desired, the resolution may provide for the payment of a composition to the separate creditors, and that the rights of the joint creditors shall not be prejudiced or affected thereby.

288. The creditors assembled at any general meeting may include in their resolution a direction that the proceedings be transferred to any Court other than that in which the same were originated; and upon any such resolution being filed, the proceedings shall be forthwith transferred by the Registrar in accordance therewith; and the Court to which the same shall have been transferred shall thereafter act in the matter of the proceedings in like manner as if the same had been properly instituted therein in the first instance.

289. Every creditor in respect of a proveable debt shall in the event of a liquidation by arrangement being resolved upon, be absolutely restrained from commencing or continuing or enforcing any proceedings whatsoever against the debtor or his property, notwithstanding that such creditor has not received notice of the general meeting, unless the Court shall be of opinion that such creditor's rights have been prejudicially affected by the resolution, and that the estate would yield a larger dividend if administered in bankruptcy.

290. Where bankruptcy occurs during the continuance of a liquidation by arrangement, the trustee under such liquida-

tion shall pay over and account for to the trustee to be appointed under the bankruptcy any monies or property of the debtor which have come to his hands, and in the event of a dividend having been paid to some of the creditors the Court shall make such order for the appropriation thereof as will equalize the distribution of the monies or property amongst the creditors who would or should have been entitled thereto under the liquidation proceedings.

291—
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291. In case of liquidation by arrangement, all proper costs of and incidental to the proceedings prior to the passing of the resolution shall be paid by the trustee out of the estate of the debtor, in like manner and in the like priority as the costs of a petitioning creditor under a bankruptcy petition.

292. Where bankruptcy occurs pending proceedings for or towards liquidation by arrangement or composition with creditors, the proper costs incurred in relation to such proceedings shall be paid by the trustee under the bankruptcy out of the debtor's estate, unless the Court shall otherwise order.

293. Where any resolution is required to be passed or any act to be done by the creditors present or represented at any meeting, the majority required for the purpose shall, in the absence of any enactment to the contrary, be a majority in value of the creditors present or represented thereat.

294. Resolutions duly come to at any meeting shall have full force and effect, notwithstanding that it may also be resolved that for other purposes the meeting shall stand adjourned.

295. Upon presentation of a special or extraordinary resolution for registration the Registrar shall examine the same, and may hear any creditor who shall have given him notice of his desire to be heard thereon. The Registrar being satisfied that the requirements of the statute and of these rules have been complied with shall register the same, making a memorandum thereon and on the debtor's statement of affairs as follows:—

"Registered day of 187 Registrar,"
and shall seal the same with the seal of the Court. The Registrar in cases of liquidation by arrangement shall thereupon deliver to the trustee a certificate according to the form in the schedule. The registration of any special or extraordinary resolution, or the refusal to register the same by the Registrar, shall be an act that may be appealed from by the debtor or any creditor who was heard before the Registrar on the occasion of such registration or refusal. The Registrar shall, where he refuses to register such resolution, certify the grounds of such refusal by memorandum under his hand, and file it with the proceedings.

296—
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296. The resolution and statement so registered shall at all times be open for inspection by any creditor whose name appears on the statement or by any person on his behalf.

297. If a receiver or manager has been appointed, his duties shall terminate upon the appointment of a trustee in cases of liquidation by arrangement, and upon the passing of the extraordinary resolution in cases of composition, unless such resolution shall otherwise provide.

298. Where a receiver or manager has been appointed and his duties are concluded, he shall render his account, and pay or deliver over any money or property in his hands to the trustee (in cases of liquidation by arrangement), or to the debtor or his nominee (in cases of composition).

299. The Court shall have the same power and discretion as to the appointment, remuneration, and removal of the receiver or manager, and in the settlement of his accounts, and in directing the appropriation of monies or property in his hands as is exercised by the Court of Chancery, or as near thereto as may be.

300. Neither the resolutions nor the proofs or proxies of creditors assembled at any meeting shall be objected to or refused by the Registrar by reason of any informality therein, unless he shall be of opinion that such informality is matter of moment, in which event he shall refer the matter to the Judge.

301. The passing of a special resolution (in the case of liquidation by arrangement) shall be deemed and taken as conclusive evidence that the debtor has complied with the provisions of the statute with regard to the statement of his affairs required to be submitted to the general meetings of his creditors. The debtor shall, however, at all times render to the trustee every information in his power with reference to his debts and assets, and shall in default be liable to be summoned and examined before the Court thereon.

302. Where liquidation by arrangement and not in bankruptcy has been resolved on, the creditors may at the same meeting at which such resolution is passed, resolve whether the debtor's discharge shall be granted either forthwith or at a date to be specified in the resolution, or subject to any and what conditions. In default of any resolution being then come to as to the debtor's discharge a general meeting shall be summoned for the purpose of considering the grant thereof, either when the trustee shall see fit or when the committee of inspection (if any) or when the debtor, with the concurrence of one-fourth in value of his creditors, who have proved, shall require the trustee to summon the same.

303. The resolution to be come to at any such meeting and

the report thereof to the Registrar, and the debtor's discharge, shall be according to the form in the schedule.

304—
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304. General meetings subsequent to the appointment of a trustee shall be summoned by him by giving seven days' notice by post to each of the creditors who have proved their debts, stating the object of the meeting and the business proposed to be transacted thereat.

305. A general meeting may, however, at any time be similarly summoned by any creditor with the concurrence, including himself, of one-fourth in value of the creditors who have proved their debts.

306. Any mistake made inadvertently by a debtor in the statement of his debts may be corrected with the assent of a majority in value of his creditors assembled at a general meeting similarly summoned by the debtor.

307. A trustee may be removed by a special resolution of the creditors assembled at a general meeting summoned for the purpose, and another trustee may be appointed in his place, by a majority in value of the creditors then present or represented. Where a trustee shall die, or where for any reason there shall be no trustee acting in the liquidation, a general meeting may be summoned in manner herein-before directed and another trustee may be appointed by the majority in value of the creditors present or represented thereat.

308. The resolution appointing any such new trustee shall be registered with the Registrar, and the certificate of the Registrar in respect of the appointment of any such new trustee shall be conclusive evidence of his appointment.

309. Any creditor or creditors resident in foreign parts, the notice to whom could not have been received in sufficient time to enable him or them to attend or be represented at the general meeting thereby convened may show cause to the Court against the resolution being proceeded with, notwithstanding its registration, but the same shall not be disturbed unless the creditor or creditors do show or can prove to the satisfaction of the Court that, had he or they been present and dissented from the resolution, the same could not have been carried by the statutory majority, and unless also the Court is of opinion that it is unjust or inequitable that the resolution should be binding on him or them.

310. Proof of debt by any creditor shall be deemed conclusive evidence that notice of all general meetings, prior to and inclusive of that at which such proof is produced has been duly given to him.

311. All debts must be proved prior to the payment of dividend thereon by the trustee.

312. Seven days at least before declaring any dividend

313—
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under a liquidation by arrangement, a notice shall be gazetted by the trustee in the form given in the schedule requiring the creditors to send to him their names and addresses, and the particulars of their debts or claims, and on declaring a dividend, a sufficient reserve shall be made by the trustee for such dividend upon all debts or claims notified to him in pursuance of such notice. The trustee shall be also deemed to have notice of the debts of all creditors whose names are inserted in the debtor's statement of affairs, and (except where any such debt has been adjudicated upon prior to the declaration of the dividend) a similar reserve shall be made in respect thereof.

313. Wherever the trustee shall reject the claim or proof of any creditor he shall give notice to such creditor by post in the form given in the schedule, and where the creditor is resident in Europe the trustee shall be entitled to exclude from dividend any such claimant or creditor whose debt he so rejects, unless such creditor shall, within 14 days from the time at which the trustee's notice should have been delivered to him in the ordinary course of post, apply to the Court to admit his proof and proceed with such application with due diligence. Where any such creditor is resident beyond the limits of Europe such length of notice shall be given to him as the Court shall order.

314. Except as before mentioned, the trustee shall declare dividends amongst such creditors only as have proved their debts up to the time of such declaration of dividend, and no creditor who has omitted to prove his debt or to send to the trustee the particulars of his claim, or whose name does not appear in the debtor's statement, shall be entitled to disturb any such dividend, or to make any claim in respect thereof against the trustee, but upon proof of his debt any such creditor shall be entitled to receive the same prior to the payment of any further dividend to the other creditors.

315. An office shall be attached to the London Bankruptcy Court to be called the "office for registration of arrangement proceedings." Such office shall be presided over by such Registrar or Registrars as the Chief Judge may from time to time appoint. All petitions to such Court under sections 125 and 126, and all proceedings thereunder shall be filed in such office, and the same shall be kept in continuation of the records of the trust deeds under the Bankruptcy Act, 1861, which shall be transferred to the aforesaid office. A similar index to that heretofore in use for trust deeds, or as near thereto as may be, shall be kept of all resolutions registered under the Bankruptcy Act, 1869. The resolutions registered in the London Court of Bankruptcy shall be entered therein as soon as registered, and the resolutions registered in the County Courts shall be entered therein as soon as an office copy thereof shall be received. Every Registrar of a County

Court registering any special or extraordinary resolution shall forthwith send an office copy thereof to the said office for registration of arrangement proceedings (such office copy to be paid for by the person registering the resolution).

316—
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Trust Deeds.

316. The Chief Judge of the London Bankruptcy Court shall have and exercise all the powers, jurisdictions, and authorities of the old London Bankruptcy Court, and the Judges of the Local Bankruptcy Courts shall have and exercise all the powers, jurisdictions, and authorities of any District Court of Bankruptcy, or of any County Court with respect to any trust deed, or deed of arrangement, composition, or inspectorship executed by a debtor whether registered or in course of registration, on or before the thirty-first day of December, 1869, in the same manner as he or they may exercise jurisdiction, powers, and authorities with respect to any other legal proceedings pending on that day under any of the enactments repealed by the Bankruptcy Repeal and Insolvent Courts Act, 1869, as provided by section 20 of such Act.

317. Every such deed in respect of which an order has been made extending the time for registering the same to a date subsequent to 31st December, 1869, shall be deemed to have been in course of registration within the meaning of the last rule.

318. The Chief Registrar of the old London Bankruptcy Court shall complete the registration of any such last-mentioned deed in manner required by the Bankruptcy Act, 1861, and the Bankruptcy Amendment Act, 1868, and shall retain and exercise all necessary authority for that purpose.

Prior Rules and Orders.

319. The foregoing rules shall apply, in exclusion of all other rules and orders heretofore made, to all proceedings commenced under the Act; but the principles, practice, and rules on which Courts having jurisdiction in Bankruptcy have heretofore acted in dealing with proceedings in bankruptcy or otherwise shall be observed by any Court with respect to the further prosecution of any proceedings pending in any of such Courts on the thirty-first day of December, 1869, except that the power of delegation of powers by the Judges of such Courts authorised by section 67 of the Act and by these rules, may be exercised by such Judges as fully with respect to such pending proceedings as it may be exercised with respect to proceedings commenced under the Act.

HATHERLEY, C.
JAMES BACON,
Chief Judge in Bankruptcy.

1st January, 1870.



LIST OF FORMS.

No.

1. Declaration of Inability to Pay.
2. Affidavit for summoning a Debtor.
3. Affidavit for summoning Debtors in partnership.
4. Debtor's summons.
5. Affidavit of Service of Debtor's Summons.
6. Substituted Service of Debtor's Summons. Notice in Gazette or paper.
7. Substituted Service of Debtor's Summons. Notice in local paper.
8. Affidavit on Application to Dismiss Debtor's Summons.
9. Order on Application to dismiss Debtor's Summons.
10. Petition.
11. Affidavit of Truth of Statements in Petition.
12. Affidavit of Truth of Statements in Petition.
13. Application for Appointment of a Receiver, and Order thereon.
14. Affidavit of Service of Petition.
15. Substituted Service of Petition. Notice in Gazette.
16. Substituted Service of Petition. Notice in local paper.
17. Notice by Debtor disputing the Truth of Statements on Petition.
18. Order to stay Proceedings on Petition.
19. Bond on stay of Proceedings.
20. Notice of Sureties.
21. Affidavit of Justification.
22. Transfer of Proceedings.
23. Dismissal of Petition.
24. Dismissal of Petition upon which Proceedings are stayed where Adjudication made on a subsequent Petition.
25. Adjournment of Petition.
26. Adjudication.
27. Notice of First Meeting in Local Paper.
28. Certificate Declaring Registrar Trustee.
29. Order for First Meeting and for the Attendance of the Bankrupt thereat.
30. Order of Court for General Meeting of Creditors.
31. Restraining Action, &c., after Bankruptcy.
32. Affidavit for Proof of Debt with or without Security.
33. Proxy (when not added to proof).
34. Affidavit of Proof of Debt by Agent of a Company.
35. Minutes of Proceedings at First Meeting.
36. List of Creditors Assembled to be used at every Meeting.
37. Certificate of Judge for Transfer of Proceedings.
38. Report and Certificate of Appointment of Trustee.
39. Bankrupt's Statement of Affairs for First Meeting.

- No.
40. Bond of Trustee.
41. Certificate of Appointment of Trustee.
42. Notice in Gazette of the Appointment of Trustee and of day for Public Examination of Bankrupt.
43. Admission of Debt by Debtor of Bankrupt.
44. Order to Pay Admitted Debt.
45. Memorandum of Public Examination of Bankrupt.
46. Notice of Meeting to be held on Resignation of Trustee.
47. Minutes at Meeting for Receiving Resignation of Trustee, &c.
48. Report and Certificate of Appointment of Trustee to fill a Vacancy caused by a Resignation.
49. Notice in Gazette of intended Dividend.
50. Application by Creditor for Order for Trustee to pay Dividend and Order thereon.
51. Report of Trustee for Closing Bankruptcy.
52. Order on Report of Trustee as to the closing of a Bankruptcy.
53. Application for Directions by Trustee.
54. Order on Application of Trustee for Directions.
55. Notice in Gazette of Meeting to authorise the Trustee to accept a Composition.
56. Order to Stay Proceedings on a Composition, &c.
57. Application to Annul Adjudication under Sect. 28.
58. Order Annulling Adjudication under Sect. 28.
59. Notice in Gazette and Paper of Bankruptcy having been Annulled.
60. Application for Release by Trustee and Order thereon.
61. Notice in Gazette of Day a Bankrupt will apply for his Discharge.
62. Application for Order of Discharge where a Dividend of not less than 10s. has been paid.
63. Application for Order of Discharge where the Failure to pay a Dividend of 10s. arose through Negligence or Fraud of Trustee.
64. Application for Order of Discharge on a Special Resolution that the Bankruptcy or the Failure to pay a Dividend of 10s. arose from Circumstances for which the Bankrupt should not be held responsible.
65. Application for an Order of Discharge during Continuance of Bankruptcy.
66. Memorandum of Application for Order of Discharge.
67. Order of Discharge.
68. Notice to Creditors of a Bankrupt, who has paid an additional sum after close of his Bankruptcy, making up a dividend of 10s. in the pound, that he will apply for an Order of Discharge.
69. Notice in Gazette of Order of Discharge.
70. Notice in Gazette that a Creditor seeks to enforce Payment of his Debt out of the Property of an undischarged Bankrupt.
71. Search Warrant.
72. Warrant of Seizure.
73. Warrant against Debtor about to quit England, &c.
74. Subpœna (London Bankruptcy Court).
75. Subpœna or Summons to Witness in County Court.
76. Summons under Sect. 96 (*in a County Court*).
77. Order setting aside Pay, Pension, &c., under Sect. 89.

No.

78. Notice to Bankrupt under Sect. 90.
79. Order setting aside Salary or Income under Sect. 90.
80. Application for Enforcement of Provision in a Composition.
81. Affidavit in support of Application for Enforcement of Provisions of a Composition under Sect. 28 or 126.
82. Order for Enforcement of Provisions in a Composition.
83. Application by Trustee for Committal of Bankrupt or other Person.
84. Affidavit in support of Application for Committal of Bankrupt for Contempt under Sect. 19.
85. Affidavit of Trustee under Sect. 93.
86. Affidavit of Person interested in a Composition for Committal.
87. Notice of Application for Committal under Sect. 19.
88. Notice of Application for Committal under Sect. 93.
89. Notice of Application for Committal under Sects. 28, 126.
90. Order of Committal under Sect. 19.
91. Order of Committal under Sect. 93.
92. Order of Committal under Sect. 28 or 126.
93. Warrant of Committal for Contempt.
94. Order for Discharge from Custody on Contempt.
95. Warrant to apprehend a Person summoned under Sect. 96.
96. Order to Postmaster-General.
97. Certificate to Speaker of the House of Commons under Sect. 122.
98. Order to Summon a Common Jury.
99. Order for a Special Jury.
100. Form of Oath to be taken by the Usher of the Court on Jury retiring to consider their Verdict.
101. Register of Bankruptcies in the London Bankruptcy Court.
102. Bankruptcy Petition Book to be kept by Chief Registrars of the London Bankruptcy Court, and Registrars of the County Courts.
103. Debtor's Summons Book to be kept by the Chief Registrar in the London Bankruptcy Court or a Registrar of a County Court.
104. Estate Book.
105. Annual Return to be made by Trustees.
106. Petition under Sects. 125, 126.
107. Affidavit in support of Petition under Sects. 125, 126.
108. Notice to Creditors of General Meeting.
109. Affidavit to be annexed to the Notice summoning First General Meeting.
110. Request with List of Creditors.
111. Notice for Gazette.
112. Order changing Place of Meeting.
113. Nomination of Receiver or Manager by Creditors.
114. List of Creditors Assembled to be used at every General Meeting.
115. First General Meeting where Liquidation by Arrangement resolved on.
116. First General Meeting where Composition resolved on.
117. Notice concerning Second General Meeting.
118. Resolution at Second General Meeting.
119. To be added to Statement of Affairs in cases under Sect. 126 where necessary.

- No.
120. Form of Affidavit to be used upon Registration of a Special or Extraordinary Resolution.
 121. Certificate of Trustee's Appointment.
 122. Resolution for Debtor's Discharge.
 123. Report of Trustee as to Debtor's Discharge.
 124. Debtor's Discharge.
 125. Notice to Creditors to come in and Prove their Debts.
 126. Notice to Claimant of Trustee's Rejection of his Claim.
 127. Affidavit of Computed Amount of Estimated Assets or Composition.
 128. Præcipe on Issuing Execution.
 129. Writ of Fieri Facias on an Order for Payment of Debt Admitted in Court to be due to the Estate of a Bankrupt.
 130. Writ of Fieri Facias on an Order for Payment by Instalments of Debt Admitted in Court to be due to the Estate of a Bankrupt.
 131. Writ of Fieri Facias on an Order for Payment of Debts Admitted in Court to be due to the Estate of a Bankrupt, and Costs Assessed by the Court.
 132. Writ of Fieri Facias on an Order for Payment of Costs to be Taxed.
 133. Writ of Venditioni Exponas.
 134. Writ of Elegit on an Order for Payment of a Debt Admitted in Court to be due to the Estate of a Bankrupt.
 135. Writ of Elegit on an Order for Payment of Debt Admitted in Court to be due to the Estate of a Bankrupt, and of Costs Assessed by the Court.
 136. Writ of Elegit on an Order for Payment of Costs to be Taxed.

SCHEDULE OF FORMS.

No. 1.

Declaration of Inability to Pay.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 6.
holden at]

I, the undersigned *A.B.* of , do hereby Rule 16.
declare that I reside [or, carry on business] within the district of the above-mentioned Court, [or where filed in a County Court, that I do not reside or carry on business within the district of the London Bankruptcy Court; but, that I reside [or carry on business], within the district of the above-mentioned Court], and that I admit that I am unable to pay my debts.

Dated this day of 187

Witness, (Signed) *A.B.*

G.H., Registrar of the Court,
or *L.M.* attorney [adding address].

No. 2.

Affidavit for summoning a Debtor.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 7.
holden at]

I, *C.D.* of , make oath and say,

1. That *A.B.* is justly and truly indebted to me in the Rule 18.
sum of [the amount of the debt] for [dc., stating the nature of the debt with certainty and precision].

2. That the said *A.B.* [where application to a County Court, does not reside or carry on business within the district of the London Bankruptcy Court, but] resides [or carries on business] at , within the district of this Court [and where debtor is a trader, carries on the trade of at]

3. That an account in writing of the particulars of my demand was, on or about the day of 187 , sent by post [or as the case may be] to the said *A.B.*, and that payment of the same has been on more than one occasion required to be made of the said *A.B.*

3—4. 4. That I did, on the _____ day of _____ instant
[or last], apply [or cause application to be made] to the said
A.B. personally [or otherwise according to the fact], for pay-
ment of the said debt.

Sworn, &c.

NOTE.—If the application was made by any other person
than the creditor it must be deposed to by such person.

No. 3.

Affidavit for summoning Debtors in Partnership.

THE BANKRUPTCY ACT, 1869.

Sect. 7.

Rule 18.

In the London Bankruptcy Court [or the County Court of
holden at _____].

I C.D. of _____ make oath and say,

1. That A.B. and C.D. are justly and truly indebted to me
in the sum of [the amount of the debt] for [&c., stating the
nature of the debt with certainty and precision].

2. That the said A.B. and C.D. [where application to a
County Court, do not reside or carry on business within the
district of the London Bankruptcy Court, but] reside [or
carry on business] at _____, within the district of
this Court [and where debtors are traders, carry on the trade
of _____ at _____].

3. That an account in writing of the particulars of my
demand was, on or about the _____ day of
187 , sent by post [or as the case may be] to the said A.B. and
C.D., and that payment of the same has been on more than
one occasion required of them.

4. That I did, on the _____ day of _____
instant [or last], apply [or cause application to be made] to
the said A.B. and C.D. [or one of them] personally [or other-
wise, according to the fact], for payment of the said debt.

Sworn, &c.

NOTE.—If the application was made by any other person
than the creditor it must be deposed to by such person.

No. 4.

Debtor's Summons.

THE BANKRUPTCY ACT, 1869.

Sect. 7.

In the London Bankruptcy Court [or the County Court of
holden at _____].

Victoria by the Grace of God, of the United Kingdom of
Great Britain and Ireland Queen, defender of the faith.

Rule 17.

To A.B. [or A.B. and C.D.,] of _____
We warn you that unless within seven days [if a trader, or

three weeks *if a non-trader*] after the service of this summons on you, exclusive of the day of such service, you do pay to *C.D.*, of _____, the sum of _____ pounds, _____ shillings, and _____ pence [and to *F.K.*, of _____, in the county of _____, the sum of _____ pounds, _____ shillings, and _____ pence, *and so on if more than two creditors*], being the sum [or sums] claimed of you by him [or them] according to the particulars hereunto annexed, for [state consideration], or shall compound for the same to his [or their] satisfaction, you will have committed an act of bankruptcy, in respect of which you may be adjudged a bankrupt, on a bankruptcy petition being presented by the said *C.D.* [and *F.K.*.] unless you shall have, within the time aforesaid applied to the Court to dismiss this summons, on the ground that you are not indebted to him [or them] in the sum claimed, or that you are indebted to him [or them] in a sum less than fifty pounds.

4. _____

Given under the seal of the Court, this _____ day of _____ 18 ____.

Registrar.

To be endorsed on Summons.

YOU ARE SPECIALLY TO NOTE,

That the consequences, which will follow any neglect to comply with the requisitions contained in the summons, are that you may be adjudged a bankrupt on the petition of *C.D.* [and *F.K.*, &c.] should you not pay to, or compound with him [or them] for the sum claimed within seven days [or three weeks, *as the case may be*] from the service of this summons on you.

If, however, you are not indebted to the said *C.D.* [and *F.K.*, &c.] in the sum claimed, or are only indebted to him [or them] in a sum less than fifty pounds, you must make application to the Court within the like number of days to dismiss this summons, by filing with the Registrar an affidavit stating that you are not so indebted, or only so to a less amount than fifty pounds, who will thereupon fix a day for the hearing of your application.

L.M., Attorney suing out this summons, carrying on business at _____, _____

or

This summons is sued out by *C.D.* [and *F.K.*, &c.] in person.

5—7.

No. 5.

Affidavit of Service of Debtor's Summons.

THE BANKRUPTCY ACT, 1869.

Rule 63.

In the London Bankruptcy Court [or the County Court of
holden at].
In the matter of a debtor's summons by *C.D.* of
[and *F.K.* of], &c.] against *A.B.*
of

I, *L.M.*, of . make oath, and say:—

1. That I did, on the . day of 187 ,
serve the above-mentioned *A.B.* with a copy of the above-
mentioned summons, duly sealed with the seal of the Court,
by delivering the same personally to the said *A.B.*

Sworn at, &c.

L.M.

No. 6. .

Substituted Service of Debtor's Summons. Notice in Gazette.

THE BANKRUPTCY ACT, 1869.

Sect. 7.

In the London Bankruptcy Court [or the County Court of
holden at].

Rule 61.

To *A.B.* of .

In the matter of a debtor's summons issued against you by
C.D. of [and *F.K.* of], &c.].

Take notice, that a debtor's summons having been granted
against you by this Court, the Court has ordered that the
publication of this notice in the London Gazette shall be
deemed to be service of such summons on you on the seventh
day after such publication.

The summons can be inspected by you on application to
this Court.

Dated this . day of 187 .
Registrar.

No. 7.

Substituted Service of Debtor's Summons. Notice in local paper.

THE BANKRUPTCY ACT, 1869.

Sect. 7.

In the London Bankruptcy Court [or the County Court of
holden at].

Rule 61.

To *A.B.* of .

In the matter of a debtor's summons issued against you by
C.D. of [and *F.K.* of], &c.].

Take notice, that a debtor's summons having been granted

against you by this Court, the Court has ordered that the publication of a notice of the granting of the summons in the *London Gazette* shall be deemed to be service on you of such summons on the seventh day after such publication.

8-9.

The summons can be inspected by you on application to this Court.

Dated this day of , 187 Registrar.

No. 8.

Affidavit on Application to dismiss Debtor's Summons.

In the matter of a debtor's summons by *C. D.* [*F. K.*, Sect. 7. &c.] against *A. B.*

I, A. B., of , make oath and say:—

That I am not indebted to *C. D.* [and *F. K.*, &c.] in the Rule 19. [aggregate] amount of the sum claimed in the summons [or that I am only indebted to *C. D.* [or *F. K.* or *G. H.*] in sum of being part of the sum claimed in the summons, or that I am not indebted to *C. D.* [and *F. K.*, &c.] in such an [aggregate] amount as will justify him [or them] in presenting a bankruptcy petition against me].

Sworn, &c.

(Signed) *A. B.*

No. 9.

Order on Application to dismiss Debtor's Summons.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 7. holden at].

In the matter of a debtor summons by *C. D.* against *A. B.*

Upon the application of *A. B.* to dismiss this summons and upon reading the affidavit of *A. B.*, and upon hearing *C. D.* (if present), it is ordered that this summons be dismissed [and that the said *C. D.* (or as the case may be) shall pay to the said *A. B.* the sum of for costs], [or that the said *A. B.* enter into a bond in the penal sum of [double the alleged debt] with such two sufficient sureties as the Court shall approve of to pay [or deposit with the Registrar the sum of as security for the payment of] such sum or sums as shall be recovered by *C. D.* [or as the case may be] against the said *A. B.* in any proceedings taken or continued against him for the recovery of the demand mentioned in such summons, together with such costs as shall be given by the Court in which such proceedings are had.

10.

And it is further ordered that all proceedings on this summons shall be stayed until the Court in which the proceedings shall be taken shall have come to a decision thereon.]

Given under the seal of the Court this _____ day
of _____ 187 .

By the Court,
Registrar.

No. 10.

Petition.

THE BANKRUPTCY ACT, 1869.

Sect. 6.

To the London Bankruptcy Court [or the County Court of
holden at _____].

Rule 26.

The humble petition of *C. D.*, of
Showeth,

That *A. B.*, [or where petition filed in other Court than the London Court, That *A. B.* does not reside or carry on business within the district of the London Bankruptcy Court, but] resides [or carries on business] within the district of this Court, that is to say, at [insert the name of the place].

That the said *A. B.* is indebted to your petitioner [or petitioners in the aggregate] in the sum of [set out the amount of the debt [or debts] and the consideration].

That your petitioner doth not nor doth any person or persons in his behalf hold any security on the bankrupt's estate or on any part thereof for the payment of the said sum [or, That your petitioner holds security for the payment of [or part of] the said sum, [or that *C. D.*, one of your petitioners, holds security for the payment of the sum of _____, and *E. F.*, another of your petitioners, holds security for the payment of the sum of _____] but that he [or they] will give up such security [or securities] for the benefit of the creditors of *A. B.*, in the event of his being adjudged a bankrupt.

[Or That your petitioner holds security for the payment of [or part of] the said sum, and that he estimates the value of such security at the sum of _____ pounds.]

That the said *A. B.* has committed an act [or acts] of bankruptcy within six months before the presentation of this petition.

That the act [or acts] of bankruptcy committed by him was or were that [here set out separately the acts of bankruptcy].

Your petitioner therefore humbly prays that on proof of the requisites in that behalf, on the hearing of this petition, the said *A. B.* may be adjudicated a bankrupt.

And your petitioner shall ever pray, &c.

C. D.

Signed on the _____ day of _____ 187 , in the presence of *G. H.* Registrar of the Court, or *L. M.* attorney, &c. 11.

N.B.—Where necessary add an allegation that debtor is a trader. Where the petitioners are partners one may sign it on behalf of himself and co-partners.

The above petition having been presented to this Court, on Rule 33. the _____ day of _____ 18 , it is ordered that this petition shall be heard at _____ on the _____ day of _____ 187 , at _____ o'clock in the _____ noon.

And you the said *A. B.* are to take notice, that should you intend to dispute the truth of any of the statements contained in the petition, you must file with the Registrar of this Court a notice showing the grounds upon which you intend to dispute the same, and send by post a copy of the affidavit to the petitioner three days before the day fixed for the hearing.

No. 11.

Affidavit of Truth of Statements in Petition.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 80. holden at _____].

In the matter of a bankruptcy petition against *A. B.* of _____.

I, the petitioner named in the petition hereunto annexed, make oath [if the petitioner declare or affirm, alter the form accordingly] and say,

1. That the several statements in the said petition are within my own knowledge true.

Sworn at, &c.

C.D.

NOTE.—If the petitioner cannot depose that the truth of all the several statements in the petition is within his own knowledge, he must set forth the statements the truth of which he can depose to, and file a further affidavit by some person or persons who can depose to the truth of the remaining statements.

No. 12.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of
holden at].

We, *C.D., E.F., G.H., &c.*, the petitioners named in the petition hereunto annexed, severally make oath and say,

And first I the said *C.D.* for myself, say,

1. That *A.B.* is justly and truly indebted to me in the sum of _____ pounds, as stated in the said before-mentioned petition.

2. That the said *A.B.* committed the act of bankruptcy stated to have been committed by him in the said before-mentioned petition.

And I the said *E.F.* for myself, say,

3. That *A.B.* is justly and truly indebted to me in the sum of _____ pounds, as stated in the said before-mentioned petition.

And I the said *G.H.* for myself, say,

4. That *A.B.* is, &c.

C.D.
E.F.
G.H.

Sworn by the deponents *C.D., E.F.,*
and *G.H., &c.*

See note to last form.

No. 13.

*Application for Appointment of a Receiver, or Manager, and
Order thereon.*

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of
holden at _____].

In the matter of a bankruptcy petition against A.B.
of _____.

I, *C.D.* of _____, the petitioner in this matter, do, on the grounds set forth in the annexed affidavit, apply to the Court for the appointment of a receiver of the property of the said *A.B.* [or the appointment of a manager of the business of _____ carried on by the said *A.B.* at _____], and that such receiver [or manager] be directed to take immediate possession thereof.

C. D.

Order thereon.

14—15.

Upon reading this application and the affidavit therein referred to, it is ordered that *L.M.* of be appointed to collect, get in, and receive the property [and [or or] to manage the business] of the said *A.B.* And it is ordered that the said do take immediate possession of such property [or business], and that he do pass his accounts at such times as may be directed by the Registrar of this Court.

Given under the seal of the Court this day
of 18

By the Court,

Registrar.

No. 14.

Affidavit of Service of Petition.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Rule 63.
holden at]

In the matter of a bankruptcy petition against *A.B.*

I, *L.M.* of , make oath and say—

1. That I did, on the day of 187 ,
serve the above-mentioned *A.B.* with a copy of the above-
mentioned petition, duly sealed with the seal of the Court,
by delivering the same personally to the said *A.B.*

Sworn at, &c.

L.M., Bailiff, creditor,
attorney or his clerk.

No 15.

Substituted Service of Petition. Notice in Gazette.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Rule 61.
holden at]

To *A.B.*

Take notice, that a bankruptcy petition has been presented against you to this Court, by *C.D.* of , and the Court has ordered that the publication of this notice in the London Gazette shall be deemed to be service of the petition upon you; and further take notice that the said petition will be heard at this Court on the day of at o'clock in the noon, on which day you are required to appear, and if you do not appear the Court may adjudge you bankrupt in your absence.

No. 18.

18—19.

Order to stay Proceedings on Petition.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [*or the County Court of Sect. 9.*
holden at _____].

In the matter of a bankruptcy petition against A.B.
of

Upon the hearing of this petition this day, and the said A.B. appearing and denying that he is indebted to the petitioner [*where petition presented by more than one creditor, add the name of the creditor whose debt is denied*] in the sum stated in the petition [*or that he is indebted to the petitioner in a sum of a less amount than fifty pounds*], [*or that he is indebted to C.D., one of the petitioners, in a sum less than the sum stated to be due from him in the petition*], it is ordered that the said A.B. shall within days enter into a bond in the penal sum of [*double the alleged debt*] with such two sufficient sureties as the Court shall approve of to pay [*or deposit with the Registrar the sum of as security for the payment of*] such sum or sums as shall be recovered against the said A.B. by C.D. the petitioner [*or one of the petitioners*] in any proceeding taken or continued by him against the said A.B., together with such costs as shall be given by the Court in which the proceedings are had.

And it is further ordered, that upon the said *A.B.* entering into the bond aforesaid, all proceedings on this petition shall be stayed until after the Court in which the proceedings shall be taken shall have come to a decision thereon.

Given under the seal of the Court this day
of 18 .

By the Court,

Registrar.

No. 19.

Bond on stay of Proceedings.

THE BANKRUPTCY ACT, 1869.

Know all men by these presents, that we, *A.B.*, of, &c., *Sects. 7 and*
and *C.D.*, of, &c., and *E.F.*, of, &c., are jointly and severally ^{9.}
held and firmly bound to *L.M.* of, &c., in _____ pounds to
be paid to the said *L.M.*, or his certain attorney, executors,
administrators, or assigns. For which payment to be made
we bind ourselves and each and every of us, our and each of
our heirs, executors, and administrators, jointly and severally,
firmly by these presents.

Sealed with our seals, and dated this day of
one thousand eight hundred and .

20.
Sect. 9. WHEREAS a bankruptcy petition against the said *A.B.* having been presented to the London Court of Bankruptcy [or County Court, &c.], he did appear at the hearing of the said petition and deny that he was indebted to the petitioner [or to one or more of the petitioners], [or that he was indebted to the petitioner in the sum of pounds only].

Sect. 7. [or Whereas the said *A.B.* having been duly served with a debtor's summons by *L.M.* of in accordance with provisions of the Bankruptcy Act, 1869, issued out of the London Bankruptcy Court, [or the County Court of holden at], applied to the said Court to dismiss such summons on the ground that he was not indebted to the said *L.M.* [or that he was not indebted to him to such an amount as would support a petition in bankruptcy].

Now, therefore, the condition of this obligation is such that if the above bounden *A.B.*, or the said *C.D.*, or *E.F.*, shall on demand well and truly pay or cause to be paid to *L.M.*, his attorney or agent, such sum or sums as shall be recovered against the said *A.B.* by any proceedings taken or continued within twenty-one days from the date hereof in any competent Court by the said *L.M.* for the payment of the debt claimed by him in the said petition or debtor's summons, together with such costs as shall be given to the said *L.M.* by such Court, this obligation shall be void, otherwise shall remain in full force.

A.B. (L.S.)
C.D. (L.S.)
E.F. (L.S.)

Signed, sealed, and delivered by the above-
bounden in the presence of

NOTE.—If a deposit of money be made, the memorandum should follow the terms of the conditions of the bond.

No. 20.

Notice of Sureties.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of holden at].

In the matter of a bankruptcy petition against *A.B.* of
[or In the matter of a debtor's summons
by *C.D.* of , against *A.B.* of].

Taks notice that the sureties whom I propose as my security in the above matter [here state the proceeding which has rendered the sureties necessary] are [here state the full names and additions of the sureties, and their residences for the last six

months, therein mentioning the county or city, places, streets, and numbers, if any].

21.

Dated this day of 187 .
To the Registrar of the Court A.B.
and L.M. of .

No. 21.

Affidavit of Justification.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of
holden at].

In the matter of a bankruptcy petition against *A.B.* of _____, [or In the matter of a debtor's summons by *L.M.* against *A.B.* of _____].

I, *E.F.* of _____, one of the sureties for _____,
make oath and say :—

1. That I am a housekeeper [or as the case may be], residing [describing particularly the county or city, the street or place, and the number of the house, if any].

2. That I am worth property to the amount of £ [the amount required] over and above what will pay my just debts, [if security in any other action or for any other purpose, add, and every other sum for which I am now security].

3. That I am not bail or security in any other matter, action, or proceeding, or for any other person [or if security in any other action or actions, add, except for C.D., at the suit of E.F., in the Court of _____ in the sum of £ _____; for G.H., at the suit of I.K., in the Court of _____ in the sum of £ _____, specifying the several actions with the Courts in which they are brought, and the sums in which he has become bound].

4. That my property, to the amount of the said sum of £ [and if security in any other action, &c., over and above all other sums for which I am now security as aforesaid], consists of [here specify the nature and value of the property in respect of which the deponent proposes to become bondsman as follows, stock in trade, in my business of

£ _____, carried on by me at _____, of the value of
£ _____, of good book debts owing to me to the
amount of £ _____, of furniture in my house at
_____ of the value of £ _____, of a free-

hold [or leasehold] farm of the value of £
situate at , occupied by
or of a dwelling-house of the value of £ , situats
at , occupied by , or of other pro-
perty, particularizing each description of property, with the
value thereof].

22—23.

5. That I have for the last six months resided at
*[describing the place of such residence, or if he has had more
 than one residence during that period, state it in the same
 manner as above directed].*

Sworn at, &c.

E.F.

No. 22.

Transfer of Proceedings.

THE BANKRUPTCY ACT, 1869.

Sect. 80,
 par. 3.
 Rule 82.

In the London Bankruptcy Court.

In the matter of a bankruptcy petition against *A.B.*
 of .

Whereas it hath been proved to the satisfaction of this
 Court that a petition for adjudication of bankruptcy against
A.B. of has been presented to this Court
 [or to the County Court of holden at],
 and that another petition has been presented against the said
A.B. to the County Court of , holden at
 : it is ordered that the said petitions [or the said
 first [or last] mentioned petition] be transferred to this
 Court [or to the County Court of , holden
 at].

Given under the seal of the Court, this day
 of , 187 .

By the Court,
 Registrar.

No. 23.

Dismissal of Petition.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of
 holden at].

Sect. 9.

In the matter of a bankruptcy petition against *A.B.*
 of .

Upon the hearing of this petition this day, the Court being
 satisfied that the debt [or debts] of the petitioning creditor
 [or creditors] is [or are] not sufficient to support a petition
 in bankruptcy [or that the debtor did not commit the act of
 bankruptcy stated to have been committed], it is ordered that
 this petition be dismissed [and that the petitioner do pay
 to the said *A.B.* the taxed costs thereof].

Given under the seal of the Court this day
 of 18 .

By the Court,
 Registrar.

No. 24.

24—26.

*Dismissal of Petition upon which Proceedings are stayed where
Adjudication made on a subsequent Petition.*

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or the County Court Sect. 9.
of holden at].

In the matter of a bankruptcy petition against A.B.
of , presented by C.D. of

Whereas A.B. has been adjudged a bankrupt upon a
petition presented to this Court by O.P. of
it is ordered that the bankruptcy petition against the said
A.B., presented to this Court by C.D. of
the proceedings in which were stayed by order of Court of
the day of 187 , be
dismissed [*add terms if any*].

Given under the seal of the Court this
day of 187 .

By the Court,
Registrar.

No. 25.

Adjournment of Petition.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 8.
holden at].

In the matter of a bankruptcy petition against A.B.
of .

Upon the hearing of this petition this day it is ordered
that the further hearing of this petition be adjourned until
the day of 18 , at
o'clock in the noon.

Given under the seal of the Court this day
of 18 .

By the Court,
Registrar.

No. 26.

Adjudication.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sects. 8, 10.
holden at].

In the matter of a bankruptcy petition against A.B.
of .

Upon the hearing of this petition this day, and upon

27-28. proof, satisfactory to the Court, of the debt of the petitioner [and of the trading], and of the act or acts of the bankruptcy alleged to have been committed by the said A.B. having been given, it is ordered that the said A.B. he and he is hereby adjudged bankrupt.

Given under the seal of the Court this day
of 187 .

By the Court,
Registrar.

[To be added for publication in Gazette.]

The first general meeting of the creditors of the said A.B. is hereby summoned to be held at this [or at the office of the] Court on the day of 18 , at o'clock of the noon, and that the Court has ordered the bankrupt to attend thereat for examination, and to produce thereat a statement of his affairs as required by the statute.

Until the appointment of a trustee all persons having in their possession any of the effects of the bankrupt must deliver them, and all debts due to the bankrupt must be paid to the Registrar. Creditors must forward their proofs of debts to the Registrar.

No. 27.

Notice of First Meeting in Local Paper.

In the London Bankruptcy Court [or the County Court of
holden at].

A.B. of was adjudged a bankrupt on the
day of 187 .

The first meeting of creditors will be held at
on the day of 187 .

Until the appointment of a trustee, all persons having in their possession any of the effects of the bankrupt, must deliver them, and all debts due to the bankrupt must be paid to the Registrar. Creditors must forward their proofs of debts to the Registrar.

No. 28.

Certificate declaring Registrar Trustee.

THE BANKRUPTCY ACT, 1869.

Sect. 18. In the London Bankruptcy Court [or the County Court of
holden at].

Rule 43. In the matter of A.B. of , a bankrupt.
Until such time as the appointment of a trustee by the

29-30.

By the Court,
Registrar.

THE BANKRUPTCY ACT, 1869.

Rules 89, 90.

By the Court,
Registrar.

Whereas upon the application of C.D. of
[leave out these words if Court order meeting without an

31. *application and begin*, at a Court holden this day], it is ordered that the trustee of the property of the bankrupt do summon a meeting of the creditors of the bankrupt to be held at _____ on the _____ day of 187____, at _____ o'clock in the _____ noon, [*here state the purpose for which meeting called*], [and that the Registrar [*or E. F.*, one of the Registrars] of this Court do preside at such meeting].

Given under the seal of the Court this _____ day of 187____.

By the Court,
Registrar.

No. 31.

Restraining Action, &c., after Bankruptcy.

THE BANKRUPTCY ACT, 1869.

Sect. 13.

In the London Bankruptcy Court [*or the County Court of* _____ holden at _____].

In the matter of a bankruptcy petition against *A.B.* of _____.

Upon the application of _____ and upon reading his affidavit it is ordered that *L.M.* of _____ shall be restrained from taking any further proceedings in the action [*or suit*] brought by him [*or upon the judgment [or decree] recovered or obtained by him*] against the said *A.B.* in [*here state the Court in which proceedings are*] [*or it is ordered that the proceedings in the action [or suit] brought by him against the said A.B. in [here state the Court in which proceedings are] may be proceeded with on [here insert the terms fixed by the Court]*].

Given under the seal of the Court this _____ day of 18____.

By the Court,
Registrar.

No. 32.

32.

Affidavit for proof of Debt with or without Security.

In the London Court of Bankruptcy [or the County Court
of holden at]

In the matter of *A.B.* of , a bankrupt.

I of make oath and say:—

1. That the said *A.B.* was at the date of the order of adjudication and still is justly and truly indebted to me in the sum of for (*state consideration*) for which said sum or any part thereof I say that I have not nor hath any person by my order or to my knowledge or belief for my use had or received any manner of satisfaction or security whatsoever, save and except the following:—

[*Here set out the particulars of the security, and the value at which the creditor has assessed the same, or if bills be held specify them in the schedule.*]

Date.	Drawn.	Acceptor.	Amount.			Date when due.

Sworn at

I appoint *C.D.*, of, &c., my proxy in the above matter.

E.F. [or *G.H.* of in partnership name].

[*When affidavit is made by a clerk alter the form accordingly and add the following.*] That I am a person in the employ of *C.D.*, and that I am duly authorized by him to make this affidavit, and that it is within my own knowledge that the aforesaid debt was incurred, and for the consideration above stated, and that such debt to the best of my knowledge and belief still remains unpaid and unsatisfied.]

33-35.

No. 33.

Proxy (when not added to proof).

THE BANKRUPTCY ACT, 1869.

Sects. 16 and
80, par. 8.

In the London Bankruptcy Court [or the County Court of
holden at].

In the matter of *A.B.*, of _____, a bankrupt.
 I, *M.N.* of _____, do hereby appoint *F.K.* of _____
 _____, as my proxy in this matter, excepting as to
 the receipt of dividend.

As witness my hand this _____ day of _____
M.N. [for self and partners].

Signed by the said *M.N.* in the presence of
X. Y. of

NOTE.—When the creditor desires that his proxy should receive dividends he should strike out the words "excepting as to the receipt of dividends," putting his initials thereto.

No. 34.

Affidavit of proof of Debt by Agent of a Company.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of
holden at].

In the matter of *A.B.* of _____, a bankrupt.
I _____, of _____, secretary [or manager or
other officer] of _____ [here state name of corporation]
make oath and say That I am duly authorized, under the
seal of the [here set out the name and style of the corporation],
to make the proof of debt on its behalf [then follow last
affidavit, altering form accordingly].

No. 35.

Minutes of Proceedings at First Meeting.

THE BANKRUPTCY ACT, 1869.

Sect. 14.

In the London Bankruptcy Court [*or* the County Court of
holden at].

In the matter of *A.B.* of _____, a bankrupt.
Minutes of resolutions come to and proceedings had at the
first meeting of creditors held at _____ this _____
day of _____ 18____, _____ Chairman,
the Registrar of the Court [*or the Registrar of the Court being
absent, F.K. of _____ was elected Chairman.*]

We the undersigned creditors, being a majority in value of the creditors present, personally or by proxy, at this meeting, and voting on this resolution do hereby resolve as follows :—

35.

That *G.H.* of (*residence and occupation*) shall be the trustee of the property of the bankrupt at (*here state remuneration*) [*or such remuneration as the creditors may from time to time determine*] [*or That the appointment of a trustee in this bankruptcy be made by the committee of inspection*].

That *I.K.*, *L.M.*, *N.O.*, *P.Q.*, and *R.S.* be appointed the committee of inspection in this bankruptcy, for the purpose of superintending the administration of the property of the bankrupt by the trustee.

[*Where security is required, add as follows: That the trustee do give security by bond to in the amount of pounds himself, and two sufficient sureties [or that F.M. and K.L. be his sureties], [or by depositing the sum of pounds with the Registrar [or by giving the security of (here insert the guarantee association or company resolved on) in the sum of pounds].*

(*Here add any other resolutions that may be come to as to the manner of the administration of the property by the trustee, the transfer of the proceedings to another Court, the appointment of a bank, &c.*

F.K., Chairman.

[*Here follow creditors' signature.*]

Creditors' signatures.	Amount of Debt.		

36.

No. 36.

List of Creditors assembled to be used at every Meeting.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [*or the County Court*
of _____, holden at _____].In the matter of
Meeting held at
this

day of

187 .

No. of Assents of Creditors.	Number.	Names of Creditors present or assembled.	Amount of Assent.	Amount of Proof.
1	1			
	2			
1	3			
1	4			
	5			
1	6			
1	7			
	7	Total number of cre- ditors present or assembled.		
5	Total number of assents.			
		Totals . . £		

37—38.

In the London Bankruptcy Court [or the County Court of Sect. 80,
holden at _____]. par. 8.

I hereby certify for the following reasons that proceedings in this bankruptcy would in my opinion be more advantageously conducted in the London Bankruptcy Court [or the County Court of _____ holden at _____].

Dated this day of 187 .
F.H., Judge.

In the London Bankruptcy Court [or the County Court of Sect. 14.
holden at _____].

It is reported to the Court as follows :—

1. That the first meeting of creditors in this bankruptcy was held at _____ on the _____ day of _____ at _____ o'clock in the _____ noon, as ordered by this Court.

2. That by resolution at such meeting *G.H.* of was appointed to fill the office of trustee of the property of the bankrupt.

3. That by another resolution it was declared that the said *G.H.* should give security for the due performance of the said office, by entering into a bond in the sum of .

with two sufficient sureties [or as the case may be].

X.Y., Registrar,
or,
F.K., Chairman.

39.

No. 39.

Bankrupt's Statement of Affairs for First Meeting.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of
holden at].In the matter of *A.B.*, of .Statement of the affairs of the above *A.B.* on the [here
insert date of institution of proceedings].

	£	s.	d.		£	s.	d.
Unsecured creditors as per list (A)				Stock in trade at [state name of place] estimated at			
Creditors fully secured, as per list (B.)	£	s.	d.	Book debts about £			
Less estimated value of securities				estimated to produce			
Surplus to contra £				Cash in hand			
Creditors partly secured as per list (C.)	£	s.	d.	Bills of exchange or other similar securities, estimated to produce			
Estimated value of securities				Furniture, fixtures, and fittings at, estimated to produce			
Other liabilities, as per list (D.)				Property, as per list (G.)			
Creditors for rent, rates, taxes, and wages, as per list (E.)				Surplus from securities in the hands of creditors fully secured, see contra			
Liabilities on bills discounted, as per list (F.) £							
Of which it is expected will rank against the estate for dividend							
Total debts £				Total assets £			

A.B.

B.

LIST OF CREDITORS FULLY SECURED.

Name of Creditor.	Address.	Estimated Value of Security.			Amount of Debt.		
A.B. . . .	Bristol . .	£	s.	d.	£	s.	d.
[Here state particulars of securities and add] Estimated to produce. .							
C.D. . . .	Glasgow . .						
[Here state particulars as above.] Estimated to produce. .							
Total estimated value of securities £							
Total amount of debts of creditors holding security £							

C.

CREDITORS PARTLY SECURED.

Names of Creditors.	Addresses.	Estimated Value of Security.			Amount of Debt.		
		£	s.	d.	£	s.	d.
<i>[Follow instructions as to list of creditors fully secured.]</i>							
Total estimated value of securities £							
Total amount of debts of creditors partly secured £							
Surplus £							

SCHEDULE OF FORMS.

D.

LIABILITIES.

	Amount of Creditor's Claim.		
<i>[The names and addresses of creditors and the full particulars of all liabilities not otherwise scheduled to be here given.]</i>	£	s.	d.
Total amount of liabilities . . . £			

E.

CREDITORS FOR RENT, RATES, TAXES AND WAGES.

Creditor's Name.	Address.	Nature of Claim.	Amount of Debt.		
		[State whether for "Rent," "Rates," "Taxes," or "Wages."]	£	s.	d.
Total . . . £					

G.

PROPERTY.

Full Statement of Nature of Property.	Estimated to produce.		
	£	s.	d.
Total . . . £			

NOTE.—The full particulars of every description of property, as defined by Section 4 of the Bankruptcy Act, 1889, not otherwise scheduled in the statement of affairs, are to be set forth in this list.

40—41.

No. 40.

Bond of Trustee.

Sect. 14.

KNOW all men by these presents, that we, *G.H.* of, &c., and *C.D.* of, &c., and *E.F.* of, &c., are jointly and severally held and firmly bound to James Bacon, the Chief Judge in Bankruptcy in £ to be paid to the said James Bacon, or his certain attorney, executors, administrators, or assigns. For which payment to be made we bind ourselves and each and every of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this day of one thousand eight hundred and

WHEREAS on the day of 18 *A.B.* of , was adjudged bankrupt; and whereas at the first meeting of creditors under the said bankruptcy the said *G.H.* was appointed trustee of the property of the bankrupt; and whereas it was resolved that the said trustee should give security by bond to [here state to whom] in the sum of , with two sufficient sureties thereto.

Now, therefore, the condition of this bond or obligation is such that if the said *G.H.* shall and do from time to time well and sufficiently perform and execute all and singular the duties required of him as trustee by the Bankruptcy Act, 1869, or any rule of Court made or hereafter to be made under such Act, this obligation shall be void or otherwise shall remain in full force and virtue.

Signed, sealed, and delivered by	}	<i>G.H.</i> (L.S.)
the above bounden		<i>C.D.</i> (L.S.)
in the presence of		<i>E.F.</i> (L.S.)

Note.—If a deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond.

No. 41.

Certificate of Appointment of Trustee.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or the County Court of holden at]

This is to certify that *G.H.* of has been duly appointed trustee of the property of *A.B.* of , adjudicated bankrupt on the day of 187 .

Given under the seal of the Court this day of 187 .

Registrar.

No. 42.

42—44.

Notice in Gazette of the Appointment of Trustee and of day for public examination of Bankrupt.

In the London Bankruptcy Court [or the County Court of Rule 70.
holden at].

In the matter of *A.B.*, of , a bankrupt.
G.H. of , has been appointed trustee of
the property of the bankrupt. The Court has appointed the
public examination of the bankrupt to take place at
on the day of at
o'clock in the noon.

All persons having in their possession any of the effects of
the bankrupt must deliver them to the trustee, and all
debts due to the bankrupt must be paid to the trustee.

Creditors who have not yet proved their debts must forward
their proofs of debts to the trustee.

Dated this day of 187 .
Registrar.

No. 43.

Admission of Debt by Debtor of Bankrupt.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 98.
holden at].

In the matter of *A.B.*, of , a bankrupt.
I, the undersigned *J.K.* of , do
hereby admit that I am indebted to the said bankrupt in the
sum of pounds, upon the balance of
accounts between myself and the said bankrupt.

Witness, *J.K.*
C.D., Registrar.

No. 44.

Order to pay admitted Debt.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 98.
holden at].

In the matter of *A.B.*, of , a bankrupt.
WHEREAS *J.K.* of , in his examination
taken this day, and signed and subscribed by him, has
admitted that he is indebted to the said bankrupt in the sum
of pounds, on the balance of accounts between
him and the bankrupt; it is ordered that the said *J.K.* do

45—46. pay to the trustee of the property of the bankrupt, in full discharge of the sum so admitted, the sum of pounds forthwith [or if otherwise, state the time and manner of payment], and do further pay to the said trustee the sum of pounds for costs.

Given under the seal of the Court this day of 187 .

By the Court,
Registrar.

No. 45.

Memorandum of public Examination of Bankrupt.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of holden at].

In the matter of A.B., of , a bankrupt.

Memorandum.—That I the above-named bankrupt being sworn and examined, upon my oath say, that the statement of accounts filed on the day of 187 , with the proceedings in the above matter, containing sheets of paper, the first sheet whereof is marked with the letter A, is true, and that the said statement of accounts do contain and is a full and true disclosure and discovery of all my estate and effects both real and personal whatsoever and wheresoever. And I further say, that at the time of this my examination, I have delivered up to the trustee of my property, all such parts of my goods, wares, and merchandizes, money, estate, and effects, and all books, papers, and writings relating thereto, as are now in my custody, possession, or power. And I further say that I have not removed, concealed, embezzled, or destroyed any part of my estate, real or personal, nor any books of accounts, papers or writings relating thereto, with an intent to defraud my creditors.

[Here insert any special matter.]

A.B.

No. 46.

Notice of Meeting to be held on Resignation of Trustee.

THE BANKRUPTCY ACT, 1869.

Sect. 83.

In the London Bankruptcy Court [or the County Court of holden at].

In the matter of A.B., of , a bankrupt.

The committee of inspection hereby give you notice that a meeting of creditors will be held at on the day of 187 ,

at o'clock in the noon, for the purpose of appointing a trustee in the place of the late trustee, who has resigned the office [or who has died, or has become bankrupt]. 47—48.

For the Committee,

E.F.,

To X.Y.

One of the said Committee.

No. 47.

Minutes at Meeting for receiving Resignation of Trustee, &c.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 83.
holden at].

In the matter of A.B., of , a bankrupt.

Minutes of proceedings had at a meeting of creditors of the said bankrupt held at on the day of 187 .

Chairman of the meeting, E.F. of

We the undersigned [here should follow similar resolutions to those appointing the late trustee, &c., at the first meeting].

E.F., Chairman of this meeting.

No. 48.

Report and Certificate of Appointment of Trustee to fill a Vacancy caused by a Resignation.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of
holden at].

In the matter of A.B., of , a bankrupt.

It is reported to the Court as follows:—

1. That a meeting of creditors in this bankruptcy was held at on the day of at o'clock in the noon, for the purpose of receiving of G.H., his resignation of the office of trustee and of appointing a person to fill such office [or for the purpose of appointing a trustee who is dead, or who has been adjudged bankrupt].

2. That the said G.H. resigned the office of trustee and by resolution at such meeting, N.O., of , was appointed to fill the office of trustee of the property of the bankrupt.

3. That by another resolution it was declared that the said N.O. should give security for the due performance of the said office, by entering into a bond in the sum of with two sufficient securities, [or as the case may be].

F.K., Chairman.

49—50.

No. 49.

Notice in Gazette of intended Dividend.

In the London Bankruptcy Court [or the County Court of
holden at]

A dividend is intended to be declared in the matter of *A.B.*,
of , adjudicated a bankrupt on the day
of 187 .

Creditors who have not proved their debts by the
day of 187 , will be excluded.

Dated this day of 187 .
G.H., Trustee.

No. 50.

Application by Creditor for order for Trustee to pay Dividend and Order thereon.

THE BANKRUPTCY ACT, 1869.

Sect. 46.

In the London Bankruptcy Court [or the County Court of
holden at]

Rule 135.

In the matter of *A.B.*, of , a bankrupt.
I, F.K., of , make application to this Court
for an order to be made upon the trustee to pay the dividend
in this bankruptcy due to me, with interest thereon for the
time it has been withheld from me, that is to say, from the
day of 187 , on which day I
applied to the trustee for its payment to me, and also to pay
to me the costs of this application.

Dated this day of 187 .
F.K.

Upon the reading of this application, and upon hearing the
trustee [and the creditor, *where he has been required to attend
and has attended*], it is ordered that the trustee do forthwith
pay to the said *F.K.* the sum of pounds, the
amount of such dividend.

And it is further ordered that the trustee do pay to the
said creditor at the same time the sum of , for
interest on such dividend, being at the rate of 5% per cent.
for the time that its payment has been withheld, together
with a further sum of for the costs of this
application.

Given under the seal of the Court this day of
187 .

By the Court,
Registrar.

(If the Court does not order payment, then, after the words
"it is ordered" insert the order made.)

No. 51.

51—52.

Report of Trustee for closing Bankruptcy.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 47.
holden at _____].

In the matter of *A.B.*, of _____, a bankrupt.

I, G.H., the trustee of the property of the bankrupt, do hereby report to this Court, as follows:—

That the whole of the property of the bankrupt has been realized for the benefit of his creditors, [and a dividend to the amount of shillings in the pound has been paid as shown by the statement hereunto annexed];

[or That so much of the property of the bankrupt as can, according to the joint opinion of myself and the committee of inspection, hereunto annexed in writing under our hands, be realized without needlessly protracting the bankruptcy, has been realized, as shown by the statement hereunto annexed, and a dividend to the amount of shillings has been paid];

[*or That a composition or arrangement*] offered by the bank- Sect. 28.
rupt was duly accepted by me [*or that a general scheme of*
settlement or arrangement of the affairs of the bankrupt has
been assented to by me] to which the approval of this Court
was given on the day of 187 .]

Dated this day of 187 .
G.H., Trustee.

No. 52.

Order on report of Trustee as to the closing of a Bankruptcy.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 47.
holden at].

In the matter of A.B. of _____, a bankrupt.

Upon reading a report of the trustee of the property of the bankrupt, dated the _____ day of _____, 187____, reporting *(here set out the terms of the report)* [and upon hearing *(here insert the name of any person who may appear to oppose an order for closing)*], the Court being satisfied that *(here follow the terms of the report)*, doth order and declare that the bankruptcy of the said A.B. has closed, [or as the Court may otherwise order].

Given under the seal of the Court this day of
187 .

By the Court,
Registrar.

53-54.

No. 53.

Application for directions by Trustee.

THE BANKRUPTCY ACT, 1869.

Sect. 20. In the London Bankruptcy Court [or the County Court of
holden at]

Rule 112. In the matter of *A.B.* of , a bankrupt.
I desire to make application to the Court for its directions
[*here state the particular matter in relation to which they are
sought*].

Trustee.
Let this application be heard on the day of
at o'clock in the noon [and let the
trustee give notice, to [*here insert the persons to whom it is to be
given*].

Dated this day of 18 .
Registrar.

No. 54.

Order on Application of Trustee for Directions.

THE BANKRUPTCY ACT, 1869.

Sect. 20. In the London Bankruptcy Court [or the County Court of
holden at]

Rule 112. In the matter of *A.B.* of , a bankrupt.
Whereas at a Court held this day the trustee of the pro-
perty of the bankrupt applied to this Court for its directions
[*here state the particular matter in relation to which they are
sought*]. Now upon hearing of *C.D.*, of , on the
matter, it is ordered [*here set out the order*], and
that the trustee do pay out of his own monies [or out of the
property of the bankrupt] the sum of the costs
of this order, and the sum of to *C.D.* for his
costs [or that *C.D.* do pay the sum of the costs
of this order, and also the sum of to *C.D.* for his
costs].

Given under the seal of the Court this day of
187 .

By the Court,
Registrar.

No. 55.

55-57.

*Notice in Gazette of Meeting to authorize the Trustee to accept
a Composition.*

In the London Bankruptcy Court [or the County Court of Sect. 28.
holden at]

A meeting of the creditors of *A.B.*, of , adju-
dicated a bankrupt on the day of
187 , will be held at on the day of
187 , at o'clock in the noon, for
the purpose of considering the propriety of sanctioning the
acceptance by the trustee of a composition offered by the
bankrupt of [or the assent by the trustee
to a scheme of settlement of the affairs of the bankrupt],
[and for the annulling thereafter of the order of adjudication
made against the bankrupt.]

G.H., Trustee.

No. 56.

Order to stay Proceedings on a Composition, &c.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 80, par.
holden at]. 10.

In the matter of *A.B.* of , a bankrupt.

Upon the application of *H.D.* of it having
been proved to the satisfaction of the Court that the proceed-
ings in this bankruptcy ought to be stayed, by reason that
negotiations are pending for the liquidation of the affairs of
the bankrupt by arrangement, [or for the acceptance of a Sects. 125,
composition by the creditors in satisfaction of the debts due 126.
to them from the debtor,] [or, state any other reason that may
have been proved to exist for the order]: It is ordered that the
proceedings in this bankruptcy be stayed until further order.

Given under the seal of the Court this day
of 187 .

By the Court,
Registrar.

No. 57.

Application to annul Adjudication under Sect. 28.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 28.
holden at]

In the matter of *A.B.* of , a bankrupt.
I, R.S. of , being interested in this matter,

Court against the said *A.B.* an order of adjudication was made on the day of 187 . 60—61.

This is to give notice that the said adjudication was by order of this Court annulled on the day of 187 .

Dated this day of 187 .
Registrar.

No. 60.

Application for Release by Trustee and Order thereon.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 51.
 holden at].

In the matter of *A.B.* of , a bankrupt.

I, the trustee of the property of the said bankrupt, do make application to this Court for my release as such trustee.

Dated this day of 187 . *G.H.*

On the hearing of the above application it is ordered by the Court that the release of the said *G.H.* be granted, and it is hereby granted accordingly, and the said *G.H.* is hereby removed from the office of trustee of the property of the bankrupt.

Given under the seal of the Court this day of 187 .

By the Court,
Registrar.

No. 61.

Notice in Gazette of Day a Bankrupt will apply for his Discharge.

In the London Bankruptcy Court [or the County Court of
 holden at].

On the day of 187 , at
 o'clock in the noon, *A.B.*, of , adjudicated
 bankrupt on the day of 187 , will
 apply for an order of discharge.

Dated this day of 187 .
Registrar.

62-63.

No. 62.

Application for Order of Discharge where a Dividend of not less than 10s. has been paid.

THE BANKRUPTCY ACT, 1869.

Sect. 48.

In the London Bankruptcy Court [or the County Court of
holden at _____].

In the matter of *A.B.* of _____, a bankrupt.

The bankruptcy of *A.B.* having been closed, as shown by the order published in the London Gazette on the
day of _____ 187____, and a dividend of [*here state the amount of the dividend, which must be not less than 10s.*] shillings in the pound having been paid out of his property to all the creditors who have proved, the said bankrupt doth hereby apply to the Court for an order of discharge.

Dated this _____ day of _____ 187____.

A.B.

Let this application be heard on the _____ day of
187____, at _____ o'clock in the _____ noon.

Dated this _____ day of _____ 18____.
Registrar.

No. 63.

Application for Order of Discharge where the Failure to pay a Dividend of 10s. arose through Negligence or Fraud of Trustee.

THE BANKRUPTCY ACT, 1869.

Sect. 48.

In the London Bankruptcy Court [or the County Court of
holden at _____].

In the matter of *A.B.* of _____, a bankrupt.

The bankruptcy of *A.B.* having been closed, as shown by the order published in the London Gazette on the
day of _____ 187____, and the failure to pay a dividend of 10s. in the pound out of his property, having been caused through the negligence [*or fraud*] of the trustee, as proved by the proceedings which have been had in this Court for the removal of such trustee [*or, as the case may have been*], the said bankrupt doth hereby apply to the Court for an order of discharge.

Dated this _____ day of _____ 187____.

A.B.

Let this application be heard on the _____ day of
187____, at _____ o'clock in the _____ noon.

Dated this _____ day of _____ 18____.
Registrar.

No. 64.

64—65.

Application for Order of Discharge on a Special Resolution that the Bankruptcy or the Failure to pay a Dividend of 10s. arose from Circumstances for which the Bankrupt should not be held responsible.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 48.
holden at].

In the matter of *A.B.* of , a bankrupt.

The bankruptcy of *A.B.* having been closed, as shown by the order published in the London Gazette on the day of 187 , and the creditors of the said bankrupt having, at a meeting held at on the day of 187 , passed a special resolution, as shown by the minutes of the proceedings had at such meeting, duly signed by the chairman thereof, to the effect that, in their opinion, his bankruptcy has arisen from circumstances for which the said bankrupt cannot justly be held responsible [or, that his failure to pay a dividend of 10s. in the pound, in their opinion, has arisen from circumstances for which the said bankrupt cannot justly be held responsible,] and that they desire that an order of discharge should be granted to the bankrupt, the said bankrupt doth hereby apply to the Court for an order of discharge.

Dated this day of 187 *A. B.*

Let this application be heard on the day of 187 , at o'clock in the noon.

Dated this day of 18 .
Registrar.

No. 65.

Application for an Order of Discharge during Continuance of Bankruptcy.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court Sect. 48.
of holden at].

In the matter of *A.B.* of , a bankrupt.

The creditors of the said bankrupt having, at a meeting held at on the day of 187 , passed a special resolution, as shown by the minutes of the proceedings had at such meeting, duly signed by the chairman thereof, assenting to the bankrupt applying to this Court for an order of discharge, although the bankruptcy has not been closed.

[Show here, as in previous forms, whether a dividend of 10s. has been paid, or could have been but for the negligence or fraud of the trustee, or that by special resolution the

66-67.

bankruptcy for the failure to pay a dividend of 10s. has arisen from circumstances for which the bankrupt should not be held responsible.]

The said bankrupt, doth hereby apply to the Court for an order of discharge.

Dated this day of 187 .
A. B.

Let this application be heard on the day of
 187 , at o'clock in the noon.

Dated this day of 187 .
Registrar.

No. 66.

Memorandum of Application for Order of Discharge.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [*or the County Court of*
 holden at].

In the matter of A.B. of , a bankrupt.

The application of the said bankrupt for his order of discharge having been read, and the Court being satisfied that the bankrupt is entitled to such order, doth hereby grant it. [*If suspended or withheld alter the form accordingly, and state reasons for suspending or withholding.*]

No. 67.

Order of Discharge.

THE BANKRUPTCY ACT, 1869.

Sect. 48.

In the London Bankruptcy Court [*or the County Court of*
 holden at].

In the matter of A.B. of , a bankrupt.

Whereas at a Court held this day of
 187 , the bankrupt applied for an order of discharge ; *
 and whereas it having been proved to the Court that a dividend of ten shillings in the pound has been paid [*or might have been paid except through the negligence [or fraud] of the trustee of the property of the bankrupt, or that a special resolution of the creditors of the bankrupt has been passed to the effect that his bankruptcy [or the failure to pay a dividend of ten shillings in the pound] has, in their opinion, arisen from circumstances for which the bankrupt cannot justly be held responsible, and that they desire that an order of discharge should be granted to the bankrupt*], an order of discharge is hereby granted.

[*Or, And whereas the Court, having had made to it a representation of the creditors of the bankrupt made by special*

resolution of the creditors passed at a meeting of them held at _____ on the _____ day of _____ 187 , 68—69.
 duly signed by the chairman thereof, that the bankrupt has made default in giving up to his creditors the property which he is required by the Bankruptcy Act, 1869, to give up [or that a prosecution has been commenced against the bankrupt in pursuance of the provisions relating to the punishment of fraudulent debtors contained in the Debtors' Act, 1869, in respect of an offence alleged to have been committed by the bankrupt against the said Act]; and whereas the Court, being satisfied of the truth of the representation of the creditors made by the said special resolution, it is ordered that the discharge of the bankrupt be withheld altogether [or suspended until _____ from the date of this order].

Given under the seal of the Court this _____ day of _____ 187 .

By the Court,
 Registrar.

No. 68.

Notice to Creditors of a Bankrupt, who has paid an additional sum after close of his Bankruptcy, making up a dividend of 10s. in the pound, that he will apply for an Order of Discharge.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of _____ Sect. 54.
 holden at _____].

In the matter of A.B. of _____, a bankrupt.

To the creditors of the said bankrupt.

Take notice that the bankrupt will apply to this Court Rules 125 to 128.
 on the _____ day of _____ 187 , at _____
 o'clock in the _____ noon, for an order of discharge on the ground that he has paid to his several creditors since the close of the bankruptcy a sum, which with the dividend of _____ paid makes up ten shillings in the pound on all the debts proved in his bankruptcy.

Dated this _____ day of _____ 187 .
 Registrar.

No. 69.

Notice in Gazette of Order of Discharge.

In the London Bankruptcy Court [or the County Court of _____ Sect. 48.
 holden at _____].

In the matter of A.B. of _____, a bankrupt.

An order of discharge was granted to A.B. of _____, Rule 95.
 who was adjudicated bankrupt on the _____ day of _____ 187 .

Registrar.

70—71

No. 70.

Notice in Gazette that a Creditor seeks to enforce Payment of his Debt out of the Property of an undischarged Bankrupt.

Sect. 54, par.
2.

In the London Bankruptcy Court [or the County Court of
holden at].

Rules 135 to
137.

Notice.—The sanction of this Court is sought for the enforcement against *A.B.* adjudicated bankrupt on the day of , 187 , of the payment of the balance remaining unpaid of a debt proved under his bankruptcy. The bankruptcy was closed on the day of 187 . All persons who have become creditors of this bankrupt since such day, and who may desire to show cause against the granting of the sanction sought, should attend at this Court on the day of 187 , at o'clock in the noon.

Registrar.

No. 71.

Search Warrant.

THE BANKRUPTCY ACT, 1869.

Sects. 76 and
79.

In the London Bankruptcy Court [or the County Court of
holden at].

Rule 176.

In the matter of *A.B.* of , a bankrupt.
Whereas by evidence duly taken upon oath it hath been made to appear to the Court that there is reason to suspect and believe that property of the said bankrupt is concealed in the house [or other place, describing it as the case may be] of one *X.M.* of in the county of such house [or place] not belonging to the said bankrupt.

These are therefore to require you to enter in the daytime into the house [or other place, describing it] of the said *X.M.* situate at aforesaid, and there diligently to search for the said property, and if any property of the said bankrupt shall be there found by you on such search, that you seize the same, to be disposed of and dealt with according to the provisions of the said Act.

Given under the seal of the Court this day of 187 .

Registrar.

To the *X.Y.* officer of this Court,
and his assistants [or High
Bailiff and others the Bailiffs
of this Court].

No. 72.

72—73.

Warrant of Seizure.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [*or* the County Court of Sect. 96.
holden at].

In the matter of *A.B.* of _____, a bankrupt.

Whereas on the _____ day of _____, 187____, an order Rule 166.
of adjudication was made against the said bankrupt:—These
are therefore to require you forthwith to enter into and
upon the house and houses, and other the premises of the
said bankrupt, and also in all other place and places belonging
to the said bankrupt where any of his goods and monies are
or are reputed to be; and there seize all the ready money,
jewels, plate, household stuff, goods, merchandize, books of
accounts, and all other things whatsoever, belonging to the
said bankrupt except his necessary wearing apparel, bedding,
and tools, as excepted by the said statute in that behalf.

And that which you shall so seize you shall safely detain and keep in your possession until you shall receive other orders in writing for the disposal thereof from the trustee; and in case of resistance or of not having the key or keys of any door or lock of any premises belonging to the said bankrupt where any of his goods are or are suspected to be, you shall break open, or cause the same to be broken open for the better execution of this warrant.

Given under the seal of the Court this day of
187 . Registrar.

To the X. Y. officer of this Court,
and to his assistants [or to the
High Bailiff and others the
Bailiffs of this Court].

No. 73.

Warrant against Debtor about to quit England, &c.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [*or* the County Court of Sect. 86.
holden at].

In the matter of a bankruptcy petition against A.B. of _____, Rule 177.
 _____, [or in the matter of A.B. of _____,
 a bankrupt].

To the X.Y. officer of this Court [or where warrant issues from a County Court, To the High Bailiff and others the Bailiffs of the said Court] and all peace officers within the jurisdiction of the said Court, and to the Governor or Keeper of the (here insert the prison).

74.

Whereas, by evidence taken upon oath, it hath been made to appear to the satisfaction of the Court, that there is probable reason to suspect and believe that the said *A. B.* is about to go abroad [or quit his place of residence] with a view of avoiding service of this petition [or of avoiding appearing to this petition], [or of avoiding examination in respect of his affairs, or otherwise delaying or embarrassing the proceedings in bankruptcy].

[Or that there is probable cause to suspect and believe that the said *A. B.* is about to remove his goods or chattels with a view of preventing or delaying such goods or chattels being taken possession of by the trustee of the property of the bankrupt, [or that the said *A. B.* has concealed [or is about to conceal or destroy] his goods or chattels, or some of them, or his books, documents, or writings, or some or one of them, which books, documents, or writings, or some or one of them may be of use to the creditors in the course of the bankruptcy of the said *A. B.*].

[Or whereas by evidence taken upon oath it hath been made to appear to the satisfaction of this Court that the said *A. B.* has removed certain of his goods and chattels in his possession, above the value of five pounds, without the leave of the trustees, that is to say [*here describe the goods or chattels.*].]

[Or that the said *A. B.* did without good cause fail to attend at this Court on the day of 187 , for the purpose of being examined, according to the requirements of an order of this Court made on the day of 187 , directing him so to attend.]

These are therefore to require you the said [or High Bailiff, Bailiffs], and others, to take the said *A. B.* and to deliver him to the Governor or Keeper of the above-named prison, and you the said Governor or Keeper to receive the said *A. B.*, and him safely to keep in the said prison until such time as this Court may order.

Given under the seal of the Court this day of 18 .

By the Court,
Registrar.

No. 74.

Subpœna (London Bankruptcy Court).

Sect. 65.

Rule 166.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, To [name of witness] Greeting; We command you, that all things set aside, and ceasing every excuse, you be and appear in your proper person before the Chief Judge of the London

Bankruptcy Court at _____ on _____ the _____ day of _____ by _____ of the clock in the _____ noon of _____ 75—76.
 the same day : [*add where production of documents required*
 and also that you bring with you and produce at the time
 and place aforesaid [*here describe shortly the deeds, papers,*
letters, &c. you require to be produced] to testify the truth ac-
 cording to your knowledge in the matter of a certain Bank-
 ruptcy Petition [*or Debtors Summons or other matter*] now in
 our London Bankruptcy Court aforesaid presented by C.D.
 against A.B. [*or granted at the instance of C.D. against A.B.,*
or as the case may be] on the part of the said C.D. [*or A.B.*],
 and at the aforesaid day in the said matter ; and hereof fail
 not at your peril.

Given under the seal of our London Bankruptcy Court the
 day of _____ 187 .

Registrar.

No. 75.

Subpœna or Summons to Witness in County Court.

THE BANKRUPTCY ACT, 1869.

In the the County Court of _____ holden at _____ . Sect. 66.
 In the matter of a bankruptcy petition against _____
 A.B. of _____ , [*or in the matter of A.B. of _____* , Rule 166.
 a bankrupt].

To X.Y. of _____ .

You are hereby required to attend at the Court House in
 _____ on the _____ day of _____ , in the _____ noon
 to give evidence in the above matter [*add where issued at*
instance of petitioning creditor on behalf of C.D. of
by whom the said petition has been presented], and then and
 there to have and produce [*state any particular documents*
required] : hereof fail not at your peril.

Dated this _____ day of _____ 187 .
 Registrar.

No. 76.

Summons under Sect. 96 (in a County Court).

THE BANKRUPTCY ACT, 1869.

In the County Court of _____ holden at _____ . Sect. 96.
 In the matter of A.B., of _____ , a bankrupt.
 To X.Y. of _____ .

You are hereby required to attend at the Court House in _____ Rule 166.
 _____ on the _____ day of _____ , in the _____ noon
 to give evidence in the above matter [*add where*
issued at instance of petitioning creditor on behalf of C.D.
of _____ , by whom the said petition has been pre-
sented], and then and there to have and produce [*state any*

SCHEDULE OF FORMS.

77.

particular documents required]: hereof if you fail, having no lawful impediment to be then made known to the Court and allowed by it, the Court may by warrant cause you to be apprehended and brought up for examination.

Dated the day of 187 .
Registrar.

No. 77.

Order setting aside Pay, Pension, &c. under Sect. 89.

THE BANKRUPTCY ACT, 1869.

Sect. 89.

In the London Bankruptcy Court [or the County Court of
holden at].

Rule 180.

In the matter of *A.B.*, of _____, a bankrupt.

Whereas it appears to the Court that the said bankrupt is [or has been, *here state what the bankrupt is or has been*], and as such is in the enjoyment of the annual pay [or half-pay, or salary, or emoluments] of _____ pounds [or pension, or compensation, of £ _____ pounds, granted by the Commissioners of Her Majesty's Treasury]; and whereas upon the application of *G. H.* of _____ the trustee of the property of the bankrupt, it appears to the Court just and reasonable that the annual sum of _____ pounds, portion of the said pay [or, *as the case may be,*] ought to be paid to the said trustee during the bankruptcy and after the close of the bankruptcy to the Registrar of this Court, in order that the same may be applied in payment of the debts of the said bankrupt, and that such payment ought to be paid out of the first monies which shall be due after the _____ day of _____, 187 _____, and be continued until this Court shall make order to the contrary: it is ordered, subject to the consent of [*here insert the official title of the chief officer of the department under which the pay, half-pay, salary, emolument, pension, or compensation is enjoyed*], that such portion of the [*here insert pay, half-pay, &c.*] shall be paid to the trustee accordingly.

Given under the seal of the Court this day of
187 .

By the Court,
Registrar.

I consent to the above order.
Dated this day of , 187 .

F.K.; Secretary of State
for [or as the case may be].

No. 78.

78-79.

Notice to Bankrupt under Sect. 90.

THE BANKRUPTCY ACT, 1869.

Sect. 90.

In the London Bankruptcy Court [or the County Court of
holden at]In the matter of A.B., of , a bankrupt. Rule 181.
To A.B.

Take notice that I intend to apply to this Court on the
day of 187 , at o'clock in
the noon, for an order under section 90 of the said Act,
for the payment of a part of your salary or income to me as
Trustee for the benefit of the creditors under your bank-
ruptcy.

Dated this day of 187 .
G.H., Trustee.

No. 79.

Order setting aside Salary or Income under Sect. 90.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 90.
holden at]

In the matter of A.B., of , a bankrupt. Rule 181.

Whereas it having been made to appear to this Court that
the bankrupt is in the receipt of a salary [or income] of
about pounds, as [here set forth the circumstances
under which the salary or income is received]: And whereas
upon the application of the trustee of the property of the
bankrupt, and upon hearing the bankrupt, it appears to the
Court just and reasonable that the annual sum of
pounds, portion of the said salary [or income] ought to be
paid by the bankrupt by monthly [or quarterly] payment
[according as the bankrupt receives his salary or income] to
the trustee during the bankruptcy, and after the close of the
bankruptcy to the Registrar of this Court, in order that the
same may be applied in payment of the debts of the said
bankrupt, and that the first of such payments ought to be
made by the bankrupt on the day of ,
187 , and be continued monthly [or quarterly] until this
Court shall make order to the contrary: it is ordered that
the said sum shall be paid by the bankrupt in manner
aforesaid out of his said salary [or income].

Given under the seal of the Court this day of
, 187 .

By the Court,
Registrar.

80—82.

No. 80.

Application for Enforcement of Provision in a Composition.

THE BANKRUPTCY ACT, 1869.

Sects. 28,
126.In the London Bankruptcy Court [or the County Court of
holden at]

In the matter of a composition made by *A.B.* of .
I, F.M. of , do apply to this Court
 for an order for the enforcement of the provisions of the
 said composition against on the
 grounds set forth in the annexed affidavit.

Dated this day of 187 .

F.M.

No. 81.

Affidavit in support of Application for Enforcement of Provisions of a Composition under Sect. 28 or 126.

THE BANKRUPTCY ACT, 1869.

Sects. 28,
126.In the London Bankruptcy Court [or the County Court of
holden at]

In the matter of a composition made by *A.B.*, of .
I, F.M., of , make oath and say:—

1. That I am interested in the said composition, having
 proved my debt as a creditor of the said *A.B.* [or as the case
 may be].

2. That [one of] the provisions of the said composition is
 [or are] that [here set it or them out].

3. That has failed to comply with the said
 provisions [or as the case may be].

Sworn at, &c.

F.M.

No. 82.

Order for Enforcement of Provisions in a Composition.

THE BANKRUPTCY ACT, 1869.

Sects. 28,
126.In the London Bankruptcy Court [or the County Court of
holden at]

In the matter of a composition made by *A.B.*, of .
 Upon hearing the application of *F.M.*, of
 a person interested in the said composition, and reading the
 affidavit of [here insert evidence], the Court being of opinion
 that the provisions of the said composition mentioned in the

said affidavit should be enforced, it is ordered that [*here insert order*]. 83—84.

Given under the seal of the Court this _____ day
of _____, 187 .

By the Court,

To

Registrar.

Take notice that unless you obey the directions contained in this order, you will be deemed to have committed a contempt of court.

No. 83.

Application by Trustee for Committal of Bankrupt or other person.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [*or the County Court of* Sect. 19.
holden at _____].

In the matter of *A.B.*, of _____, a bankrupt.

I, the trustee of the property of the said bankrupt [*or as the case may be*], do apply to this Court for an order of committal for contempt of this Court against the said bankrupt [*or L.M.*, _____], on the ground set forth in the annexed affidavit.

Dated this _____ day of _____ 187 .
G.H., Trustee.

No. 84.

Affidavit in support of Application for Committal of Bankrupt for Contempt under Sect. 19.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [*or the County Court of* Sect. 19.
holden at _____].

In the matter of *A.B.*, of _____, a bankrupt.

I, *G.H.*, the trustee of the property of the said bankrupt, make oath, and say:—

1. That the said bankrupt did wilfully fail to produce to the first meeting of his creditors, held on the _____ day of _____ 187 , at _____, the statement of his affairs, the production of such statement being a duty imposed upon him by the nineteenth section of the said Act, and by the Rules of Court. Where bankrupt fails to produce statement of affairs.

[*or* 1. That the said bankrupt did attend at the first meeting of his creditors held on the _____ day of _____ 187 , at _____, and wilfully refused to submit to be examined at such meeting in respect of his property [*or his creditors*], the submitting to examination being a duty Where bankrupt does not submit to examination.

85. imposed upon him by the nineteenth section of the said Act.]

Where bankrupt fails to attend a meeting other than the first. [1. That the said bankrupt did wilfully fail to attend a meeting of his creditors held on the day of 187 , at [or to wait on me at my office on the day of 187], the attending such meeting [or waiting on me] being a duty imposed upon him by the nineteenth section of the said Act.

Where bankrupt fails to execute a deed. [or 1. That the said bankrupt has wilfully failed to execute [here describe the deed, &c. that he has failed to execute], the execution of such deed when required by me being a duty imposed upon him by the nineteenth section of the said Act.

Where bankrupt fails to attend a meeting other than the first; or to execute a deed. 2. [That the said bankrupt was on the day of 187 , duly served with a notice, a copy of which is hereunto annexed, by leaving the same at his usual place of residence, requiring him to attend the said meeting], [or to execute the above-mentioned deed, &c.]

Where bankrupt fails to obey special orders of Court. [or 1. That the said bankrupt has wilfully failed to perform the duty imposed upon him by the nineteenth section of the said Act of [here insert any act he has been required to do by any special order of the Court, stating the day on which the order was made].

2. That the said bankrupt was duly served with a copy of such order by leaving the same at his usual place of residence on the day of 187].

Where bankrupt has failed to deliver up property. [or 1. That the said bankrupt has failed to deliver up possession of [here state the property he has failed to deliver up], which property is divisible amongst his creditors under the said Act, and which said property was [or is] in his possession or control, he having been required by me to deliver up the said property by notice, a copy of which is hereunto annexed, and which notice was duly served upon him on the day of 187 , at his usual place of residence.]

Sworn at, &c.

G.H.

No. 85.

Affidavit of Trustee under Sect. 93.

THE BANKRUPTCY ACT, 1869.

Sect. 93. In the London Bankruptcy Court [or the County Court of holden at].

In the matter of A.B., of , a bankrupt.

I, G.H., the trustee of the property of the said bankrupt, make oath and say:—

1. That I believe that L.M., of , hath in his possession or power as [here set out the capacity in which the person stands to the bankrupt] certain monies [and securi-

ties] belonging to the bankrupt, that is to say, [*here set out and describe the particular monies and securities*]. 86—87.

2. That on the day of 187 , I did apply personally to the said *L.M.*, to pay and deliver to me the said monies and securities, and that he did not then, nor has he since paid or delivered to me the same [*or That I, on the day of posted a letter to the said L.M., addressed to him at , calling upon him to &c., and that on the day of 187 , I posted another letter, by which I again called upon him to, &c., and that he has failed to pay and deliver the same*].

3. That I firmly believe that the said *L.M.* is not entitled by law to retain such monies [and securities] as against the bankrupt or against me as the trustee of the property of the bankrupt.

Sworn at, &c.

G.H.

No. 86.

Affidavit of Person interested in a Composition for Committal.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [*or the County Court of* Sect. 28.
holden at].

In the matter of a composition by *A.B.*, of .

I, F.M., of , make oath and say:—

1. That was by an order of this Court made on the day of 187 , ordered to [*here set out the order*].

2. That a copy of the said order was duly served on the said .

3. That the said has failed to obey such order.

Sworn at, &c.

F.M.

No. 87.

Notice of Application for Committal under Sect. 19.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [*or the County Court of* Sect. 93.
holden at].

In the matter of *A.B.*, of , a bankrupt.

To the said bankrupt.

Take notice that the trustee of the property of the said bankrupt will on the day of 187 , at o'clock in the noon, apply to this Court for an order for your committal to prison for contempt of this Court, you having failed to perform the duty imposed on you

88—89. by the nineteenth section of the said Act [*here set out the duty he has failed to perform*]. And further take notice that you are required to attend the Court on such day at the hour before stated to show cause why an order for your committal should not be made.

Dated this day of 187 .
Registrar.

No. 88.

Notice of Application for Committal under Sect. 93.

THE BANKRUPTCY ACT, 1869.

Sect. 93. In the London Bankruptcy Court [or the County Court of
holden at].

In the matter of A.B., of , a bankrupt.

To [*here insert name, address, and description of the person to whom the notice is to be sent*].

Take notice that the trustee of the property of the said bankrupt will on the day of 187 , at o'clock in the noon, apply to this Court for an order for your committal to prison for contempt of this Court, you having failed to pay and deliver to him certain monies [and securities] belonging to the bankrupt in your possession or power as [*here state whether as Treasurer, Banker, &c.,*] that is to say [*here set out and describe the particular monies and securities*]. And further take notice that you are required to attend the Court on such day at the hour before stated to show cause why an order for your committal should not be made.

Dated this day of 187 .
Registrar.

No. 89.

Notice of Application for Committal under Sects. 28, 126.

THE BANKRUPTCY ACT, 1869.

Sects. 28, 126. In the London Bankruptcy Court [or the County Court of
holden at].

In the matter of a composition made by A.B., of .

To

Take notice that C.D., of , will on the day of 187 , at o'clock in the noon, apply to this Court for an order for your committal to prison for contempt of this Court, you having disobeyed the order of this Court made on the day of 187 , [*here set out order*]. And further take notice that you are required to attend the Court on such day at the hour

before stated, to show cause why an order for your committal should not be made. 90—91.

Dated this day of 187 .
Registrar.

No. 90.

Order of Committal under Sect. 19.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of
 holden at].

In the matter of *A.B.*, of , a bankrupt.

Upon the application of the trustee of the property of the bankrupt, and upon hearing the bankrupt [or if he does not appear] reading the affidavit of [here insert name and description of person by whom the notice to show cause was served] and upon reading the affidavit of [enter evidence] the Court being of opinion that the bankrupt has been guilty of a contempt of this Court by having failed to [here follow the notice], it is ordered that the said bankrupt do stand committed to [here insert prison] for his said contempt.

Given under the seal of the Court this day
 of 187 .

By the Court,
 Registrar.

No. 91.

Order of Committal under Sect. 93.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of
 holden at].

In the matter of *A.B.*, of , a bankrupt.

Upon the application of the trustee of the property of the bankrupt, and upon hearing *L.M.* [or if *L.M.* does not appear], reading the affidavit of [here insert name and description of person by whom the notice to show cause was served] and upon reading the affidavit of [enter evidence] the Court being of opinion that *L.M.* has been guilty of a contempt of this Court by having failed to pay and deliver to the said trustee certain monies [and securities] [here follow the notice], and that the said *L.M.* do stand committed to [here insert prison] for his said contempt.

Given under the seal of the Court this day
 of 187 .

By the Court,
 Registrar.

92-93.

No. 92.

Order of Committal under Sect. 28 or 126.

THE BANKRUPTCY ACT, 1869.

Sects. 28,
126.In the London Bankruptcy Court [or the County Court of
holden at]].In the matter of *A.B.*, of , a bankrupt [or
where bankruptcy annulled or proceeding under Sect. 126. In
the matter of a composition made by *A.B.*, of]].Whereas by an order of this Court made on the
day of 187 [here recite the order]. Now upon
the application of *C.D.*, of , and upon hearing *A.B.*
(or as the case may be) [or if he does not appear] reading the
affidavit of [here insert name and description of person by
whom the order was served on *A.B.*], and upon reading the
affidavit of [enter evidence], the Court being of opinion that
the said *A.B.* has been guilty of a contempt of this Court by
his disobedience of the said order, it is ordered that the
said *A.B.* do stand committed to [here insert prison] for his
said contempt.Given under the seal of the Court this day
of 187 .By the Court,
Registrar.

No. 93.

*Warrant of Committal for Contempt.*Sects. 19, 28,
93, 126.In the London Bankruptcy Court [or the County Court of
holden at]].In the matter of *A.B.*, of a bankrupt.To *X.Y.* Officer of this Court [or where warrant issues
from a County Court, To the High Bailiff and others the
Bailiffs of the said Court], and to the Governor or Keeper
of the [here insert the prison].Whereas by an order of this Court bearing date the
day of 187 , it was ordered that
the said bankrupt [or *L.M.*, of] should stand
committed for contempt of this Court.These are therefore to require you the said *X.Y.* [or
High Bailiffs, Bailiffs], and others, to take the said *A.B.* [or
L.M.] and to deliver him to the Governor or Keeper of the
above-named prison, and you the said Governor or Keeper
to receive the said *A.B.*, and him safely to keep in the said
prison until such time as this Court shall order.Given under the seal of the Court this day
of 18 .By the Court,
Registrar.

No. 94.

94—95.

Order for Discharge from Custody on Contempt.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of
holden at].

In the matter of *A.B.*, of , a bankrupt.

Upon application made this day of
for *A.B.*, who was committed to prison for contempt by
order of this Court, dated the day of
187 , and upon reading his affidavit showing that he has
cleared [or is desirous of clearing] his contempt, and has
paid the costs occasioned thereby, and upon hearing the
trustees, [or *C.D.* of], it is ordered that the
Governor or Keeper of [here insert name of prison], do dis-
charge the said *A.B.* out of his custody, as to the said
contempt.

Given under the seal of the Court this day
of 187 .

By the Court,
. Registrar.

No. 95.

Warrant to apprehend a Person summoned under Sect. 96.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of Sect. 24.
holden at].

In the matter of *A.B.*, of , a bankrupt.

To *X.Y.* and his assistants of this Court [or where warrant
issues from a County Court, To the High Bailiff and others the
Bailiffs of the said Court].

Whereas by summons or subpœna dated the
day of 187 , and directed to the said *A.B.* [or
to *F.M.* of], he was required personally to
be and appear on the day of
instant, at o'clock in the noon at this
Court, to be examined ; and which said summons or subpœna
was afterwards, on the day of
187 , as hath been proved upon oath, duly served upon
the said , and a reasonable sum was tendered him
for his expenses. And whereas the said having
no lawful impediment made known to or allowed by this
Court hath not appeared before me as by the said summons
or subpœna he was required, but therein has wholly made
default. These are therefore to will, require, and authorize
you and every of you to whom this warrant is directed,
immediately upon receipt hereof, to take the said

96—97.

, and bring him before this Court on the
day of , in order to his being examined as
aforesaid, and for your so doing this shall be your sufficient
warrant.

Given under the seal of the Court this day
of 187 .

By the Court,
Registrar.

No. 96.

Order to Postmaster General.

THE BANKRUPTCY ACT, 1869.

Sect. 52.

In the London Bankruptcy Court [or the County Court of
holden at].

In the matter of *A.B.*, of , a bankrupt.

Upon the application of *G.H.* of , the trustee
of the property of the above bankrupt, it is ordered that for
a period of three months from (*here insert the date of the order
of adjudication*) all post letters directed or addressed to the
said bankrupt at [*here insert only the place or places of which
the bankrupt is described in such order of adjudication*] shall be
re-directed, sent, or delivered by the Postmaster General or
officers acting under him to the said trustee at ,
and that a sealed duplicate of this order be forthwith trans-
mitted by the trustee to the Postmaster General, or officers
acting under him.

Given under the seal of the Court this day
of 187 .

By the Court,
Registrar.

No. 97.

Certificate to Speaker of the House of Commons under Sect. 122.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of
holden at].

In the matter of *A.B.*, of , a bankrupt.

It is hereby certified by this Court to the Right Honour-
able the Speaker of the House of Commons that the said *A.B.*
being a member of the Commons House of Parliament, was
by and under an order of adjudication made by this Court on
the day of 187 adjudged a bank-
rupt. And that although one year has expired since the date
of the said order of adjudication was made the said order of
adjudication hath not been annulled, nor have the debts of

the creditors who proved debts under the bankruptcy been 98—99.
fully paid or satisfied.

Certified under the seal of the Court this day
of 187 .

By the Court,
Registrar,

No. 98.

Order to Summon a Common Jury.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court.

In the matter of .

Upon motion this day made, &c.

It is ordered that the sheriff do summon a sufficient number of common jurors for the trial of a certain question [or certain questions] of fact, to be tried before the Chief Judge, in his Court, at , in the county of Middlesex, on the day of , 18 , at of the clock in the forenoon precisely. And it is ordered that the said sheriff do attend with the said jurors accordingly.

No. 99.

Order for a Special Jury.

THE BANKRUPTCY ACT, 1869.

In the matter of

Upon motion this day made, &c.

It is ordered that, at the expense of the plaintiff [or defendant, or petitioner, or respondent] in the first instance, forty-eight special jurors be nominated by ballot out of the special jurors' list for the county of , of persons qualified to serve on special juries for the said county, and be reduced before the under sheriff of the said county; and that twelve of them be struck out by each party, and that the names of the remaining twenty-four be placed on a panel for the trial of a certain question [or certain questions] of fact [or as to the amount of damages sustained by] in this cause [or matter], and that the said sheriff of the said county do cause the said twenty-four jurors to be summoned to attend at the said trial, on, &c. [as in preceding form], and that the said sheriff do also summon twelve common jurors to attend at the said trial on the day and at the time and place aforesaid. And it is ordered that the said sheriff and the said jurors do attend accordingly.

N.B.—If special jury, obtained on the application of either party, without the special direction of the Court, leave out the words “in the first instance.”

100—
102.

No. 100.

Form of Oath to be taken by the Usher of the Court on Jury retiring to consider their Verdict.

THE BANKRUPTCY ACT, 1869.

You shall well and truly keep this Jury in some private and convenient place, without meat, drink, or fire (candle-light excepted). You shall not suffer any person to speak to them, neither shall you speak to them yourself, without leave of the Court, except to ask them if they are agreed on their verdict.

No. 101.

REGISTER of BANKRUPTCIES in the LONDON BANKRUPTCY COURT.

Name of Bankrupt.	Residence.	Description.	Petitioning Creditor and Description.	Attorney.	Date of Adjudication.	Day for First Meeting.	Date of Appointment, and Name and Address of Trustee.	Day for Public Examination of Bankrupt.	Date of annulling Adjudication, and Reason.	Dividend, Amount, and Date.	Close of Bankruptcy.	Application for Order of Discharge.	Date of Order of Discharge, and why granted.

A similar Form for Register of Bankruptcies in the County Courts to be used, adding a heading showing name of Court in which matter is.

SCHEDULE OF FORMS.

No 104.—ESTATE BOOK.

(Pro formd.)

Dates.	Receipts or Payments.	State of Bank Account.	State of Trustee's Account.
		£ s. d.	£ s. d.
1870. March 14	Dr. Received cash on bankrupt's desk		5 0 0
" "	" Received balance on bankrupt's deposit account		39 14 6
" "	Cr. Paid into bank account	£40 0 0	£44 14 6 40 0 0
" " 20	Dr. Received arrears of rent due by Jas. Johnstone £25 0 0		£4 14 6
" "	" Half-year's rent to Christmas from do. 17 10 0		
" "	" Do. from William George for shop 27 10 0		
" "	" Do. from John Williams for cellar 5 0 0		75 0 0
" "	Cr. Paid into bank	£75 0 0	£79 14 6 75 0 0
" " 30	Dr. Received from John Thompson debt due by him 75 16 8	£115 0 0	4 14 6
" "	" Received from Wm. Jones, do. 5 2 6		
" "	" £30 19 2		80 19 2
" "	Cr. Paid into bank	£80 0 0	£85 13 8 80 0 0
" " 31	Dr. Received proceeds of household furniture sold by J. Williams, auctioneer	£195 0 0	£5 13 8
" "	Dr. Paid into bank	£195 0 0 150 8 4	£156 2 0 150 8 4
1870. April 3	Dr. Received dividends on gas shares, payable at Lady Day, 1870 £3 0 0	345 6 4	5 13 8
" "	" Price of gas shares sold 126 0 0		129 0 0
" "	Cr. Paid into bank	126 0 0	134 13 8 126 0 0
			£8 13 8

Dates.	Receipts or Payments.	State of Bank Account.	State of Trustee's Account.
1870. April 16	<i>Dr.</i> Received from Thomas Thomson, amount of debt due by him	£ s. d.	£ s. d.
			8 2 4
" "	<i>Cr.</i> Paid into bank	15 0 0	16 16 0
		£486 8 4	15 0 0
" " 30	<i>Dr.</i> Received per draft on bank account	20 0 0	£1 16 0
		£466 8 4	20 0 0
" "	<i>Cr.</i> Paid to account of allowance to bankrupt		£21 16 0
			20 0 0
" May 2	<i>Dr.</i> Received per draft on bank account	10 0 0	1 16 0
		456 8 4	10 0 0
" "	<i>Cr.</i> Paid rates and taxes		11 16 0
		£456 8 4	9 6 0
" June 1	<i>Dr.</i> Received per draft on bank account	30 0 0	£2 10 0
		426 8 4	30 0 0
" "	<i>Cr.</i> Paid allowance to bankrupt £13 12 0		32 10 0
" "	" Law expenses and miscellaneous charges 16 12 0		
			30 4 0
Balance in bank at 14 June, 1870 (date of audit), exclusive of interest from commencement of account, to be ascertained at the end of the year		426 8 4	
Balance in the trustee's hands at 14 June, 1870			2 6 0
Add balance in bank, as above			426 8 4
Total balance of assets realized in favour of the estate, as at 14 June, 1870			£428 14 4

(Signed) G.H., Trustee.

106—
107,

No. 106.

Petition under Sections 125, 126.

THE BANKRUPTCY ACT, 1869.

To the London Bankruptcy Court [or the County Court
of _____, holden at _____].

The humble petition of A.B., of, &c.

Showeth,

That your petitioner alleges that he is unable to pay his debts, and is desirous of instituting proceedings for liquidation of his affairs by arrangement or composition with his creditors, and hereby submits to the jurisdiction of this Court in the matter of such proceedings. (*In the case of a trader, add "and that your petitioner estimates the amount of the debts owing by him to his creditors at £ _____."*)

[*Add where petition presented to a County Court, That your petitioner does not reside or carry on business within the district of the London Bankruptcy Court.*]

Your petitioner therefore prays that notices convening such general meeting or meetings of his creditors as may be necessary to be given by him during the course of such proceedings may be sent in the prescribed manner, and that such resolution or resolutions as his creditors may lawfully pass in the course of such proceedings, and as may require registration, may be duly registered by the Registrar of the Court.

And your petitioner shall ever pray, &c.

A.B.

Signed by the petitioner, A.B., on
the _____ day of _____, 187 _____,
in the presence of

Registrar

or

Attorney. (Address).

If the petition be by partners, alter the form accordingly.

No. 107.

Affidavit in support of Petition under Sections 125, 126.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court of
_____ holden at _____].

I, A.B., of _____, make oath and say, as follows:—

I am the [or one of the] petitioner [or petitioners] named in the petition hereunto annexed.

I verily believe that it will be most convenient to the creditors whose debts exceed ten pounds that the general meeting should be held at _____.

Sworn at _____

A.B.

(Where an Attorney is employed add the following Certificate.)

I certify my belief that it will be most convenient to the creditors of the petitioner that the general meeting should be held at

[as above].

C.D.,

Attorney in the matter of the petition.

108—
109.

No. 108.

Notice to Creditors of General Meeting.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or the County Court of , holden at].

In the matter of proceedings for liquidation by arrangement or composition with creditors instituted by A.B.

of (description as in petition).

A general meeting of the creditors of the above-named person [or persons] is hereby summoned to be held at (here insert name of town, and street or place) on , the day of instant [or next], at o'clock in the noon precisely. The sections of the Bankruptcy Act, 1869, under which the proceedings are instituted provide as follows:—

(Here extract from clause 125, sub-sections 1 and 5, and the two first paragraphs of sect. 126.)

A form of proof and proxy will be found on the third side of this notice.

Dated the day of

, 187 .

(Signed) A.B. (Debtor),

or,

C.D. (adding address);

Attorney for the said debtor.

In case of partnership the notice must be signed by one of the partners in the partnership name, or by all the partners, or by a solicitor or solicitors in their behalf.

No. 109.

Affidavit to be annexed to the Notice summoning First General Meeting.

In the London Court of Bankruptcy [or the County Court of , holden at].

In the matter of proceedings for liquidation by arrangement or composition with creditors instituted by A.B., of, &c.

I of make oath and say, as follows:—
The said A.B. was at the date of the institution of the said

110.

proceedings and still is justly and truly indebted to me in the sum of for (*state consideration*) for which said sum or any part thereof I say that I have not nor hath any person by my order or to my knowledge or belief for my use had or received any manner of satisfaction or security whatsoever, save and except the following:—

[*Here set out security, or if bills be held specify them in the schedule.*]

Date.	Drawn.	Acceptor.	Amount.			Due Date.

Sworn at

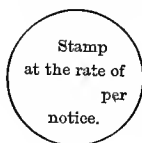
I appoint *C.D.*, of, &c., my proxy in the above matter.
E.F. [*or G.H.* of in partnership name].

No. 110.

Request with List of Creditors.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [*or the County Court*
of holden at].



In the matter of proceedings for liquidation by arrangement or composition with creditors instituted by (*insert name; the address need not be inserted*).

To the Registrar.

I [*or we*] request that the notices of the general meeting on the day of 187 , herewith delivered to you, duly addressed and stamped for post, may be sent to the under scheduled creditors.

Dated this day of 187 .

(*To be signed by the debtor or one of the debtors or his or their attorney.*)

No.	Names of Creditors or Firms of Creditors.	Addresses.	Estimated Amount of Debt.

No. 111.

Notice for Gazette.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or the County Court of _____, holden at _____].

In the matter of proceedings for liquidation by arrangement or composition with creditors instituted by A.B. of _____.

Notice is hereby given that a first (or second, as the case may be) general meeting of the creditors of the above-named person or persons has been summoned to be held at _____, on the _____ day of _____, at _____ o'clock in the noon precisely.

Dated this _____ day of _____, 18 ____.
A.B.
or

C.D. (Attorney for the said A.B.)

The signature to this notice, if not sealed, must be verified by affidavit, unless signed by a London Solicitor.

SCHEDULE OF FORMS.

112—
113.

No. 112.

Order changing Place of Meeting.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or the County Court
of , holden at].

In the matter of proceedings for liquidation by arrange-
ment or composition with creditors instituted by
of, &c. (*following description as in petition*).

Upon sufficient cause this day shown to the satisfaction of
the Court, the general meeting of creditors in this matter
summoned for the the day of , is hereby directed
to be held at , in lieu of the place originally named.
And hereof let notice be given forthwith.

Dated this day of , 187 .

Registrar,
or
Deputy Registrar.

No. 113.

Nomination of Receiver or Manager by Creditors.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or in the County
Court of , holden at].

In the matter of proceedings for liquidation by arrange-
ment or composition with creditors instituted by A.B.
of, &c.

We, the undersigned, being a majority in value of the
creditors of the said A.B., do hereby nominate and appoint
Mr. of to be receiver (or manager) of
the trade effects (and business) of the said A.B., pending the
resolution to be come to by the creditors under the said
proceedings.

Dated this day of 187 .

Witness's Name and Address.	Creditors' Signatures.	Amount of Debt.		

No. 114.

114.

List of Creditors assembled to be used at every General Meeting.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or the County Court
of , holden at].

In the matter of

General Meeting, held at
this day of

187 .

No. of Assents of Creditors whose Debts exceed 10 <i>l</i> .	Number.	Names of Creditors assembled.	Amount of Assent.			Amount of Proof.		
1	1							
	2							
1	3							
1	4							
	5							
1	6							
1	7							
	7	Total number of creditors assembled.						
5	Total number of assents.							
		Totals . . . £						

115—
116.

No. 115.

First General Meeting where Liquidation by Arrangement resolved on.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or the County Court of _____, holden at _____].

In the matter of proceedings for liquidation by arrangement or composition with creditors instituted by _____.

We, the undersigned, being the statutory majority of creditors, assembled at the general meeting in the above matter duly held at _____, this _____ day of _____, 187____, in accordance with the provisions of the said Act, do hereby resolve as follows:—

- (1.) That the affairs of the said _____ shall be liquidated by arrangement and not in bankruptcy.
- (2.) That _____ be and he is hereby appointed trustee.
- (3.) That _____ be and they are hereby appointed a committee of inspection (or in lieu of 2 and 3, the following:—That a subsequent meeting be held at _____ on _____, at _____ o'clock, a.m. [or p.m.] precisely, for the appointment of a trustee with or without a committee of inspection).

- (4.) That _____ be entrusted with the registration of this special resolution.

[Here follow signatures of creditors.]

F.K., Chairman.

No. 116.

First General Meeting where Composition resolved on.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or in the County Court of _____, holden at _____].

In the matter of proceedings for or towards the liquidation by arrangement or composition with creditors instituted by A.B. of _____, &c.

We, the undersigned, being the statutory majority of creditors assembled at the first meeting in the above matter, duly held at _____, this _____ day of _____, 187____, in accordance with the provisions of the said Act, do hereby resolve as follows:—

1. That a composition of _____ in the pound shall be accepted in satisfaction of the debts due to the creditors from the said A.B.
2. That such composition be payable as follows [here

state whether the same is to be payable in one payment or by instalments, and at what date from the second meeting]. 117.

3. That the security of *C.D.* be accepted for the said composition [or the instalment thereof], or that the said composition [or the instalments thereof] be secured to the satisfaction of *E.F.* and *G.H.*

4. That *I.K.* be appointed trustee in the matter.
[Here follow signatures of creditors.]

F.K., Chairman.

No. 117.

Notice concerning Second General Meeting.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or in the County Court of , holden at].

In the matter of proceedings for liquidation by arrangement or composition with creditors instituted by *A.B.* of , &c.

A second general meeting of the creditors of the above-named person [or persons] is hereby summoned to be held at , on the day of instant [or next], at o'clock in the noon precisely. A majority in number and value of the creditors then assembled may confirm the resolution come to at the first general meeting, or a majority in number representing three-fourths in value of such creditors may by resolution declare that the affairs of the above-named person [or persons] may be liquidated by arrangement and not in bankruptcy.

Dated the day of , 187 .
(Signed) *A.B.* (*Debtor*),
or
C.D. (*adding address*),
Attorney for the said debtor.

SCHEDULE OF FORMS.

118—
119:

No. 118.

Resolution at Second General Meeting.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy,

or,

In the County Court of _____, }
holden at _____.

In the matter of proceedings for or towards the liquidation by arrangement or composition with creditors instituted by A.B. of , &c.

We, the undersigned, being the statutory majority of creditors assembled at the second meeting in the above matter, duly held at _____, this _____ day of _____, 187____, in accordance with the provisions of the said Act, do hereby confirm the resolution passed by the statutory majority of the creditors of the said A.B. assembled at the first meeting, [or do hereby resolve that the affairs of the said A.B. be liquidated by arrangement and not in bankruptcy.] [and following on as in the form provided for resolution at the first general meeting, where liquidation by arrangement is resolved on.]

[Here follow signatures of creditors.]

F.K., Chairman.

No. 119.

*To be added to Statement of Affairs in cases under Sect. 126
where necessary.*

List of bills of exchange or promissory notes on which the debtor is liable, and of the holder whereof he is ignorant.

[illegible]

No. 120.

120—
122.

Form of Affidavit to be used upon Registration of a Special or Extraordinary Resolution.

In the London Bankruptcy Court [or the County Court of holden at .]

In the matter of proceedings for liquidation by arrangement or composition with creditors instituted by A.B. of, &c.

I, the above-named A.B. [or C.D. of, &c., as the case may be] make oath and say as follows:—

1. That I verily believe that the resolutions, statement of affairs, proofs, and proxies filed in this matter are the whole of the resolutions, statement, proofs, and proxies come to and produced at the general meeting (or meetings) held in this matter on the day of , and the day of .)

2. (*In cases of composition.*) That I verily believe that the gross amount of composition payable to my creditors [or to the creditors of the said A.B.] does not exceed £ .

Sworn, &c.

No. 121.

Certificate of Trustee's Appointment.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or the County Court of , holden at].

In the matter of a special resolution for liquidation by arrangement of the affairs of A.B. of, &c.

This is to certify that C.D. of, &c., has been appointed, and is hereby declared to be trustee under this liquidation by arrangement.

Given under my hand and the seal of the Court this day of , 187 .

Registrar.

No. 122.

Resolution for Debtor's Discharge.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or the County Court of , holden at].

In the matter of a special resolution for liquidation by arrangement of the affairs of A.B. of, &c.

We, the undersigned, being the statutory majority of the creditors assembled at the general meeting of creditors in the above matter duly held at , this day of

123—
124.

, 187 , in accordance with the provisions of the said Act do resolve—

That the discharge of the said *A.B.* be and the same is hereby granted.

[or that the discharge of the said *A.B.* be granted to him on the day of , 187 , or that the discharge of the said *A.B.* be granted to him on (*here state the conditions on which the same is granted.*)].

That the close of this liquidation shall take place on and from the day of , 187 .

That *G.H.*, the trustee, be released on and from the day of , 187 .

No. 123.

Report of Trustee as to Debtor's Discharge.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or the County Court, of , holden at].

In the matter of a special resolution for liquidation by arrangement of the affairs of *A.B.* of , &c.

I, being the trustee under the above liquidation, do hereby certify and report that a general meeting of the creditors of the said *A.B.* was held at on the day of , and that the discharge of the debtor was then granted by a special resolution of the creditors then assembled.

Dated this day of , 187 .

Trustee.

To the Registrar.

No. 124.

Debtor's Discharge.

THE BANKRUPTCY ACT, 1869.

In the London Court of Bankruptcy [or the County Court of , holden at].

In the matter of a special resolution for liquidation by arrangement of the affairs of *A.B.* of, &c.

Whereas the trustee under the said liquidation has certified and reported to me that (*here follow certificate of trustee*).

I do, therefore, hereby certify such discharge in pursuance of the statute in that behalf.

Given under my hand and the seal of the Court this day of , 187 .

Registrar.

No. 125.

*Notice to Creditors to come in and prove their Debts.*125—
127.

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court
of , holden at].

In the matter, &c.

The creditors of the above-named A.B., who have not
already proved their debts are required on or before the
day of to send their names and ad-
dresses, and the particulars of their debts or claims, to me,
the undersigned of , the trustee under
the liquidation, or in default thereof they will be excluded
from the benefit of the dividend proposed to be declared.

Dated this day of , 187 .
Trustee.

No. 126.

Notice to Claimant of Trustee's rejection of his Claim.

THE BANKRUPTCY ACT, 1869.

In the Court of Bankruptcy, London [or the County Court
of , holden at].

In the matter of, &c.

Take notice, that I, the undersigned trustee under this
liquidation, do hereby reject your claim against the estate
(or to the extent of £ , part of your claim), and
that I intend to exclude you from dividend in respect thereof.
And further take notice, that such exclusion will be final,
unless within fourteen days you apply to the Court to
prove your debt, and proceed with such application with
due diligence.

Dated this day of , 187 .

Yours, &c.,

Name, (Trustee).
Address,

To

No. 127.

*Affidavit of computed Amount of estimated Assets or
Composition.*

THE BANKRUPTCY ACT, 1869.

In the London Bankruptcy Court [or the County Court
of , holden at].

In the matter of a special resolution for liquidation by
arrangement of the affairs of A.B. of, &c. [or a com-

128—
129.

position arrangement between A.B. of &c., and his creditors].

I, A.B., the above-named debtor [or the trustee or some person able to depose thereto] make oath and say as follows :

That I verily believe (where a person other than the debtor deposes, add after inquiry made by me and to the best of my knowledge, information, and belief).

That, the amount of the assets [or composition] in this matter does not exceed £ .

Sworn at, &c.

No. 123.

Præcipe on issuing Execution.

Surrey, fi. fa., eligit or venditioni exponas [as the case may be] against C.D. for payment of £ and £ costs [as the case may be] to A.B., trustee of [omit this if not applicable] on order of Court of Bankruptcy in London.

Dated the

day of , 187 .

E.F. [attorney issuing the writ].

Address and date.

No. 129.

Writ of Fieri Facias on an Order for Payment of Debt admitted in Court to be due to the Estate of a Bankrupt.

In the London Bankruptcy Court.

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to the Sheriff of greeting: Whereas by an order of the Court, dated the day of in the year of our Lord 18 , and made in the matter of [insert the title of the order], reciting that C.D. of in his examination taken the day of , and signed and subscribed by him, had admitted that he was indebted to the said bankrupt in the sum of £ upon the balance of account between the said C.D. and the said bankrupt, it was ordered that the said C.D. should pay to A.B., the trustee of the estate and effects of the said bankrupt in full discharge of the sum so admitted, the sum of £ forthwith [make this conformable to the order]: And whereas we are given to understand that the said sum of [or that the sum of £ part of the said sum of £] is still unpaid: Now we command you that of the goods and chattels of the said C.D. in your bailiwick you cause to be made the said sum of £ [insert the sum to be levied], and that of the goods and chattels of the said C.D. in your bailiwick you further cause to be made interest upon the

130.

said sum of £ at the rate of 4*l.* per centum per annum from the said date of the said order: And that you have that money and interest before the Court immediately after the execution hereof, to be paid to the said *A.B.*, trustees as aforesaid, in pursuance of the said order: And that you do all such things as by the statute you are authorized and required to do in his behalf: And in what manner you shall have executed this our writ make appear to our said Court immediately after the execution thereof, and have there then this writ.

Given under the seal of the Court this day
of , 187 .

No. 130.

Writ of Fieri Facias on an Order for Payment by Instalments of Debt admitted in Court to be due to the Estate of a Bankrupt.

In the London Bankruptcy Court.

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to the sheriff of greeting: Whereas by an order of the Court, dated the day of in the year of our Lord 18 , made in the matter of [*insert the title of the order*], reciting that *C.D.* of in his examination taken the day of and signed and subscribed by the said *C.D.* [*or as the case may be*], had admitted that he was indebted to the said bankrupt in the sum of £ upon the balance of accounts between the said *C.D.* and the said bankrupt, it was ordered that the said *C.D.* should pay to *A.B.*, the trustee of the estate and effects of the said bankrupt, in full discharge of the said sum of £ , the sum of £ in manner following, that is to say, by instalments of £ each, the first whereof was to be made on the day of , and it was ordered that in default of payment of any of the said instalments the whole sum then remaining unpaid should immediately become payable and be paid: And whereas we are given to understand that default was made in payment of one of the said instalments, and thereupon the said sum of £ which then remained unpaid [*or the sum of £ , being the portion of the sum so ordered to be paid which then remained unpaid, according to the facts*] immediately became payable, but the same has not been paid: Therefore we command you that of the goods and chattels of the said *C.D.* in your bailiwick you cause to be made the said sum of £ [*insert here the sum to be levied*], and that of the goods and chattels of the said *C.D.* in your bailiwick you further cause to be made interest [*proceeding as in the former form*].

131—
132.

No. 131.

Writ of Fieri Facias on an Order for Payment of Debts admitted in Court to be due to the Estate of a Bankrupt, and Costs assessed by the Court.

In the London Bankruptcy Court.

Victoria, by the grace of God [as in the forms given above, reciting the order, including the portion of it relating to costs]: And whereas we are given to understand that the said sums of £ and of £ are still unpaid [make this agree with the facts]: Now we command you that of the goods and chattels of the said C.D. in your bailiwick you cause to be made the said sums of £ and £ [proceed as in the above forms, with the necessary variations].

No. 132.

Writ of Fieri Facias on an Order for Payment of Costs to be taxed.

In the London Bankruptcy Court.

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to the sheriff of greeting: We command you that of the goods and chattels of C.D. in your bailiwick you cause to be made the sum of £ for certain costs which by an order made by our Court in the matter of [insert the title of the order], dated the day of were ordered to be paid by the said C.D. to A.B., trustee of the estate and effects of [omit this if not applicable, and alter the form to suit the facts of the case], which costs have been since taxed at the said sum of £ , as appears by an allocatur dated the day of , and that of the goods and chattels of the said C.D. in your bailiwick you further cause to be made interest at the rate of £4 per centum per annum, on the said sum from the said date of the said allocatur: And that you have that money and interest before our Court immediately after the execution hereof, to be paid to the said A.B. in pursuance of the said order: And that you do all such things as by the statute you are authorized and required to do in this behalf: And in what manner you shall have executed this our writ make appear to our said Court immediately after the execution thereof.

Witness.

Given under the seal of the Court, this day
of , 18 .

No. 133.

*Writ of Venditioni Exponas.*133—
134.

In the London Bankruptcy Court.

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to the sheriff of greeting: Whereas by our writ we lately commanded you that of the goods and chattels of *C.D.* [*here recite the mandatory part of the fieri facias to the end*], and on the day of you returned to our said Court that by virtue of the said writ to you directed you had taken goods and chattels of the said *C.D.* to the value of the money and interest aforesaid, which said goods and chattels remained in your hands unsold for want of buyers [*to be varied according to the actual return*]: Therefore, we, being desirous that the said *A.B.* should be satisfied the money and interest aforesaid, command you that you expose to sale, and sell or cause to be sold the goods and chattels of the said *C.D.* by you in form aforesaid taken and every part thereof for the best price that can be gotten for the same, and have the money arising from such sale before our said Court immediately after the execution hereof, to be paid to the said *A.B.* and have there then this writ.

Given under the seal of the Court this day
of , 18 .

No. 134.

Writ of Elegit on an Order for Payment of a Debt admitted in Court to be due to the Estate of a Bankrupt.

In the London Bankruptcy Court.

Victoria, &c. To the sheriff of greeting: Whereas [*recite the order for payment, and that the money continues unpaid, as in the form of fieri facias above given, and proceed*]: And afterwards the said *A.B.* came into our said Court, and, according to the form of the statute, in such case made and provided, chose to be delivered to him, [*her or them, as the case may be*], all the goods and chattels of the said *C.D.* in your bailiwick, except his oxen and beasts of the plough, and also such lands, tenements, rectories, tithes, rents, and hereditaments, including lands and hereditaments of copyhold or customary tenure in your bailiwick, as the said *C.D.*, or any one in trust for him, was seised or possessed of on the day of [*the day on which the order was made*], or at any time afterwards, or over which the said *C.D.* on the said day of [*the day on which the order was made*], or at any time afterwards, had any disposing power which he might, without the assent of any other person, exercise for his own benefit, to hold to him the said goods and

135.

chattels as his proper goods and chattels, and to hold the said lands, tenements, rectories, tithes, rents, and hereditaments respectively, according to the nature and tenure thereof, to him and to his assigns until the said sum of £ shall have been levied: Therefore, we command you that without delay you cause to be delivered to the said *A.B.* by a reasonable price and extent all the goods and chattels of the said *C.D.* in your bailiwick, except his oxen and beasts of the plough; and also all such lands, tenements, rectories, tithes, rents, and hereditaments, including lands and hereditaments of copyhold and customary tenure in your bailiwick, as the said *C. D.* or any person in trust for him, was seised or possessed of on the said day of [the day on which the order was made], or at any time afterwards, or over which the said *C. D.* on the said day of [the day on which the order was made], or at any time afterwards, had any disposing power which he might, without the assent of any other person, exercise for his own benefit, to hold the said goods and chattels to the said *A.B.* as his proper goods and chattels, and also to hold the said lands, tenements, rectories, tithes, rents, and hereditaments respectively, according to the nature and tenure thereof, to him and to his assigns until the said sum of £ shall have been levied. And in what manner you shall have executed this our writ make appear to us in our Court aforesaid immediately after the execution thereof, under your seal and the seals of those by whose oath you shall make the said extent and appraisement.

And have you there then this writ,

Witness

Given under the seal of the Court this day
of , 18 .

No. 135.

Writ of Elegit on an Order for Payment of Debt admitted in Court to be due to the Estate of a Bankrupt, and of Costs assessed by the Court.

In the London Bankruptcy Court.

Victoria, &c., to the sheriff of greeting: Whereas [recite the order for payment, including the portion of it relating to costs, and that the monies are unpaid as before, and proceed]: And afterwards the said *A.B.* came into our said Court, and, according to the form of the statute in such case made and provided, chose to be delivered to him all the goods and chattels of the said *C.D.* in your bailiwick, except his oxen and beasts of the plough; and also all such lands, tenements, rectories, tithes, rents, and hereditaments, including lands and hereditaments of copyhold or customary

tenure in your bailiwick as the said *C.D.*, or any one in trust for him, was seised or possessed of on the day of
 [the day on which the order was made], or at any
 time afterwards, or over which the said *C.D.* on the said
 day of [the day on which the order was
 made]; or at any time afterwards, had any disposing power
 which he might, without the assent of any other person,
 exercise for his own benefit; to hold to him the said goods
 and chattels as his proper goods and chattels, and to hold the
 said lands, tenements, rectories, tithes, rents, and heredita-
 ments respectively, according to the nature and tenure
 thereof to him and to his assigns, until the said two several
 sums of £ and £ , together with interest upon the
 said sum of £ at the rate of £4 per centum per annum
 from the day of [the day on which the order
 was made], and on the said sum of £ at the rate afore-
 said, from the day of [the date of the allocatur]
 shall have been levied: Therefore, we command you that
 without delay you cause to be delivered to the said *A.B.* by
 a reasonable price and extent, all the goods and chattels of
 the said *C.D.* in your bailiwick, except his oxen and beasts
 of the plough; and also all such lands and tenements,
 rectories, tithes, rents and hereditaments, including lands
 and hereditaments of copyhold or customary tenure in your
 bailiwick, as the said *C.D.*, or any person or persons in trust
 for him, was or were seised or possessed of on the said
 day of [the day on which the order was made], or at
 any time afterwards, or over which the said *C.D.* on the said
 day of [the day on which the order was made],
 or at any time afterwards, had any disposing power which he
 might, without the assent of any other person, exercise for
 his own benefit; to hold the said goods and chattels to the
 said *A.B.* as his proper goods and chattels, and also to hold
 the said lands, tenements, rectories, tithes, rents, and
 hereditaments respectively, according to the nature and
 tenure thereof to him and to his assigns, until the two
 several sums of £ and £ , together with interest
 aforesaid, shall have been levied. And in what manner you
 shall have executed this our writ makes appear to us in our
 Court aforesaid immediately after the execution thereof,
 under your seal and the seals of those by whose oath you
 shall make the said extent and appraisement. And have you
 there then this writ.

Given under the seal of the Court this day
 of , 18 .

No. 136.

In the London Bankruptcy Court.

Victoria, &c., to the sheriff of _____ greeting : Whereas lately, in our Court of Bankruptcy, in a certain matter there depending, intituled " In the matter of *E.F.*," by an order of our said Court made in the said matter, and bearing date the _____ day of _____, it was ordered that *C.D.* should pay unto *A.B.* certain costs as in the said order mentioned, and which costs have been taxed and allowed by the Master of our said Court, at the sum of £ _____, as appears by the certificate of the said Master, dated the _____ day of _____ And afterwards the said *A.B.* came into our said Court of Bankruptcy, and, according to the form of the Statute in such case made and provided, chose to be delivered to him all the goods and chattels of the said *C.D.* in your bailiwick, except his oxen and beasts of the plough, and also all such lands, tenements, rectories, tithes, rents, and hereditaments, including lands and hereditaments of copyhold or customary tenure, in your bailiwick, as the said *C.D.*, or any one in trust for him, was seised or possessed of on the _____ day of _____ [the date of the allocatur], or at any time afterwards, or over which the said *C.D.*, on the said _____ day of _____ [the date of the allocatur], or at any time afterwards, had any disposing power, which he might, without the assent of any other person, exercise for his own benefit; to hold to him the said goods and chattels, as his proper goods and chattels and to hold the said lands, tenements, rectories, tithes, rents, and hereditaments respectively, according to the nature and tenure thereof, to him and to his assigns, until the said sum of £ _____, together with interest thereon at the rate [of] £4 per centum per annum, from the said _____ day of _____ [the date of the master's certificate of taxation] shall have been levied: Therefore, we command you that without delay you cause to be delivered to the said *A.B.*, by a reasonable price and extent, all the goods and chattels of the said *C.D.* in your bailiwick, except his oxen and beasts of the plough; and also all such lands and tenements, rectories, tithes, rents, and hereditaments, including lands and hereditaments of copyhold or customary tenure, in your bailiwick, as the said *C.D.*, or any person or persons in trust for him, was or were seised or possessed of on the said _____ day of _____ [the date of the allocatur], or at any time afterwards, or over which the said *C.D.* on the said day, or at any time afterwards, had any disposing power, which he might, without the assent of any other person or persons, exercise for his own benefit: to hold the said goods and chattels to the said *A.B.* as his proper goods and chattels, and also to hold the said lands, tenements, rectories, tithes, rents, and hereditaments respectively, according to the nature and tenure thereof, to him and to his assigns, until the said sum of £ _____, together with

interest as aforesaid, shall have been levied. And in what manner you shall have executed this our writ make appear to us in our Court of Bankruptcy aforesaid, immediately after the execution thereof, under your seal, and the seals of those by whose oath you shall make the said extent and appraisement. And have there then this writ.

Witness

HATHERLEY, C.

JAMES BACON,

Chief Judge in Bankruptcy.

1st January, 1870.

THE BANKRUPTCY ACT, 1869.

SCALE OF ATTORNEY'S COSTS.

Petitioning Creditor's Bill of Costs to the Appointment of Trustee.

	£	s.	d.
Instructions for petition	1	0	0
Examining witnesses as to trading, where necessary	0	10	0
Ditto as to act of bankruptcy	0	10	0
Examining particulars of petitioning creditor's account	0	6	8

The act of bankruptcy being a declaration admitting inability to pay, filed by the attorney to the petitioner, or an assignment prepared by the attorney to the petitioner, or default made upon a debtor's summons issued by the attorney to the petitioner, these two last charges will not be allowed. The expense of an assignment will not be allowed where a declaration of inability would answer the purpose.

If attorney reside at a distance:—

Writing agent to search for prior petition	3s.	6d.	
Agent's writing result of search	3s.	0d.	
Searching, if prior petition filed	0	7	8
Drawing bankruptcy petition, including order for hearing	0	10	0
If exceeding 10 folios, a shilling a folio.			
Ingrossing same, 4d. per folio only to be allowed where the petition exceeds seven folios.			
Paid for stamp and parchment	5	1	0
Attesting signature of each petitioner, except in case of partnership	0	6	8
Drawing and fair copy affidavit verifying petition	0	3	4
Attending petitioner to be sworn	0	6	8
Paid oath (if paid)			

	£	s.	d.
Two copies of petition for sealing, 4d. per folio.			
Preparing subpoena and serving witnesses, or arranging with witnesses for their attendance on presentation of petition	0	13	4
Paid them			
See Witnesses' Scale. Petitioning creditor is not to be regarded as a witness, and is not to be paid for loss of time; he may claim his expenses of travelling and subsistence.			
Attending on presentation of petition when court investigated statements therein, and clerk	1	0	0
One fee only for attending will be allowed, unless by direction of the court at the time, and a memorandum of its allowance produced to the taxing officer.			
Drawing order for hearing of petition	0	3	4
Service of petition (<i>see</i> General Rules).			
Attending court on hearing (where debtor does not appear or dispute), including two fair copies of adjudication and certificate of Registrar's appointment of trustee	1	0	0
Drawing order for bankrupt's attendance at first meeting, and copy for service and attending and obtaining signature	0	6	8
Attending first meeting and clerk	1	5	0

Where Act of Bankruptcy the filing a Declaration of Inability to Pay.

Drawing declaration for inability to pay	0	6	8
Attending attesting	0	6	8
Paid stamp	0	5	1
Attending filing	0	6	8

Where Act of Bankruptcy is an Assignment for Benefit of Creditors (to be allowed only by Special Order of the Court).

Instructions for assignment	0	6	8
Drawing same	0	10	0
If above 1s. per folio.			
Fair copy, per folio 4d.			
Paid stamp and paper, if stamped	1	15	6
Attesting execution, each assigning party	0	6	8

Cost of Debtor's Summons.

Instructions for affidavit of debt, and for debtor's summons	0	6	8
Affidavit of debt, and for copy	0	6	8
Particulars of demand (three copies) at 4d. per folio			

	£	s.	d.
Attending swearing each deponent	0	6	8
Paid oath (if paid)			
Attending filing	0	6	8
Paid for office copy			
Summons and two fair copies and particulars	0	6	8
Attending sealing summons, copies and particulars	0	6	8
Paid stamp	0	5	0
Service of summons	0	5	0
Attending court on hearing of summons	0	13	4

Costs where the Debtor is required by the Court to enter into a Bond.

Attending making inquiries as to sufficiency of sureties	0	13	4
This charge will be subject to increase, according to the distance of the sureties' residence; and, where necessary, agency charges for making such inquiries.			
Drawing exceptions to sureties	0	3	4
Service thereof on debtor's attorney	0	5	0
Attending court when sureties allowed or disallowed	0	13	4
Costs of affidavits in opposition to the allowance of the bond for want of sufficiency of sureties, the same allowance as for other special affidavits.			

Costs of Debtor's Summons, where the Court allows Costs to Debtor on Dismissal of Summons.

The debtor's personal expenses for travelling and loss of time, according to the scale allowed to witnesses.

And if attended by a solicitor, and his costs allowed (which must be by special order of the court).

Instructions to attend the court on the summons	0	6	8
Affidavit of denial of debt	0	2	6
Paid stamp	0	1	0
Attending court on hearing of summons, and drawing up order	0	13	4
Attending for appointment to tax, and copy and service of order and appointment	0	5	0
Attending taxing	0	6	8
Paid allocatur stamp			

Costs of Application to prosecute a Petition in a particular District, or to transfer Petition from one District to another.

Instructions for affidavit to ground application	0	6	8
Drawing same, 1s. per folio.			
Fair copy, 4d. per folio.			
Attending deponent to be sworn	0	6	8

	£	s.	d.
Paid oath			
Attending court when order made, and drawing up same	0	13	4
<i>Costs on Application for Warrant.</i>			
Instructions for affidavit in support of application for warrant	0	6	8
Drawing same, per folio 1s.			
Fair copy, per folio 4d.			
Attending to read over and to get same sworn	0	6	8
Attending court, warrant granted	0	13	4
Fair copy, per folio 4d.			
Attending officer, instructing him as to the execu- tion of the warrant	0	6	8
<i>Costs of Disputing Statements in Petition.</i>			
Attending debtor served with copy of petition, taking instructions to show cause against same	0	6	8
Drawing notice showing cause	0	5	0
Two fair copies for service	0	2	0
Service on creditor, including postage	0	3	6
Ditto registrar	0	3	6
Perusing and considering petition	0	6	8
Examining witnesses in opposition	0	10	0
Costs of brief, and counsel's fee, where requi- site to employ counsel.			
Attending court	1	0	0
<i>Petitioning Creditor's Costs on Bankrupt disputing Statements in Petition.</i>			
The debtor having served notice of disputing the statements in petition, attending petitioner	0	6	8
Special attendances will be allowed to examine witnesses as to the facts they can prove, the charges for which, and for summoning them, will be in the discretion of the taxing officer, according to the circumstances; and where necessary to employ counsel to support the petition, the usual charges for brief and counsel's fees will be allowed.			
Attending court when adjudication made	1	0	0
<i>Costs for Substituted Service where Debtor keeps out of the way to avoid Service.</i>			
Several attendances to serve without effect, when it appearing that the debtor was keeping out of the way, and could not be personally served, instruc- tions to apply for substituted service	0	6	8
Drawing affidavit of facts, and that due pains had been taken to effect personal service, per folio 1s.			
Fair copy, 4d. per folio.			
Attending court for order for substituted service, and drawing up order	0	13	4

<i>Costs of Brief.</i>	£	s.	d.
Instructions for brief in discretion of taxing officer (Allowed only when counsel employed.)			
Drawing same, 1s. per folio.			
Fair copy, 4d. per folio.			
Fee to counsel and clerk			
Attending him	0	6	8
Where consultation or conference is necessary, attending to appoint same	0	6	8
Fee to counsel and clerk			
Attending consultation or conference	0	13	4
<i>Costs of Cases for Opinion of Counsel.</i>			
Instructions for case	0	6	8
Drawing same, 1s. per folio.			
Fair copy, 4d. per folio.			
Fee to counsel and clerk			
Attending him	0	6	8
Where conference is necessary attending to appoint same	0	6	8
Fee to counsel and clerk attending conference	0	13	4
Attending for and perusing opinion	0	6	8
Attending client, reading over opinion, and con- ferring with him thereon	0	6	8
<i>Costs of Motion.</i>			
Instructions	0	6	8
Where on appeal	0	13	4
Drawing notice of motion to be served, per folio 1s.			
Fair copies, 4d. per folio.			
Perusing documents (by London agent) in an appeal, from 1l. 1s. to 2l. 2s.			
Making short note of motion, and attending re- gistrar therewith, previously to the sitting of the court	0	3	4
Instructions for affidavit in support of motion	0	6	8
[No instructions allowed where the attorney or his clerk makes the affidavit; no fees allowed to counsel to settle affidavit, unless very special.]			
Drawing same, at per folio 1s.			
Fair copies, per folio 4d.			
Attending reading over and to be sworn	0	6	8
Paid oath			
Copy affidavit for service with the notice of motion, 4d. per folio.			
Services, <i>see</i> General Rules.			
Attending to file affidavit	0	6	8
Paid for office copy, when required			
Affidavit of service and copy notice of motion to annex	0	6	8
Attending court on motion if heard 1l. 1s., and if not	0	10	6
Drawing order, per folio 1s.			

	£	s.	d.
Attending settling same	0	13	4
Fair copy, per folio 4d.			
Attending to pass order	0	6	8
Copy to serve, where necessary, per folio 4d.			

GENERAL RULES.

1. More than one attendance at presentation or hearing of bankruptcy petition will not be allowed unless ordered by the court, and memorandum be obtained to that effect.
2. Attendance upon the court for necessary purposes not included in the foregoing scale, each
Attending court on each sitting (including presentation and hearing of petition) 1 0 0
If by agent 2 0 0
Clerk's attendance at each sitting, when required 0 5 0
3. Service of petition, summons, order, notice, or other process, each service 0 5 0
If the distance be more than three miles, 5d. per mile extra, or a further sum, in the discretion of the taxing officer, according to circumstances.
In cases of great distance, the service must be by agent, unless otherwise sanctioned.
4. Drawing and copy bill of costs, per folio 0 0 4
5. General attendances, each 0 6 8
Long and special attendances 0 13 4
(Or more in the discretion of the taxing officer.)
6. Writing letters, each, special 0 5 0
Ditto, common 0 3 6
7. Circular letters, if above twenty . . each . . 0 1 0
If numerous, they must be printed.
8. Attendances to insert advertisements 0 3 4
9. Extra allowances for length of sittings, or other increased allowances must have the sanction of the court, and a memorandum to that effect obtained, or all such charges will be disallowed.
10. Vouchers must be produced on taxation for all payments, or they will be disallowed.
11. Bills of costs must be written lengthwise, on one side only, and dates must be furnished to each item, such dates not to be written in the margin, which is to be left clear for taxation.
12. In special cases, where counsel are not instructed to appear in court, a charge by the attorney for the preparation of minutes of fact or evidence for his own use may be allowed.

N.B.—Other matters not herein provided for may be allowed on a similar scale, as nearly as may be, or in accordance with the practice of the superior courts, according to the nature of the proceeding.

The following charges to the end are to be subject to variation by the trustees, with the consent of the committee of inspection, or of the court where there is no committee:—

Broker's Allowance.

	£	s.	d.
For inventory and valuation—			
For the first 100 <i>l.</i>	2	10	0
For the next 400 <i>l.</i> , per cent.	1	5	0
All above	1	0	0
(This allowance to include all expenses, and any travelling within five miles of the court, and a fair copy of the inventory.)			
Beyond 5 miles, per mile one way	0	0	7

Auctioneer's Charges, including all Expenses of Sale.

Sales by auction of goods, chattels, and effects:—

10*l.* per cent. on the first 100*l.*

After to . . . 1,000*l.* . . . 5*l.* per cent.

After to . . . 5,000*l.* . . . 2*l.* 10*s.* per cent.

After to . . . 10,000*l.* . . . 1*l.* 5*s.* per cent.

If the above be sold by valuation, 2*l.* 10*s.* per cent, on the first 1000*l.*, and 1*l.* 5*s.* per cent. beyond.

Sales by auction of estates, freehold, leasehold, &c.:—

5*l.* per cent. on the first 300*l.*

After to . . . 1,000*l.* . . . 2*l.* 10*s.* per cent.

After to . . . 5,000*l.* . . . 1*l.* per cent.

After to . . . 10,000*l.* . . . 10*s.* per cent.

If the above be sold by valuation, half the above charges; and if not sold, the expenses to be paid, and fee to the auctioneer to be allowed as agreed with the trustee, or at the discretion of the taxing officer; or if bought in, and subsequently sold by private contract, by the negotiation of the auctioneer, half the above charges on sales by auction.

Farming stock 5*l.* per cent. on the first 100*l.*, and 2*l.* 10*s.* on the remainder. When sold by valuation, half the above charges.

Costs of Surveys, Dilapidations, and Specifications.

From 2*l.* to 5*l.* in discretion of taxing officer.

Sales of Stock by Tender.

Not above 400*l.* 4*l.* per cent.

After to 1,000*l.* 3*l.* 10*s.* per cent.

After to 2,000*l.* 2*l.* 10*s.* per cent.

After to 5,000*l.* 2*l.* per cent.

Above 5,000*l.* and upwards . . . 1*l.* 15*s.* per cent.

Expenses to be allowed, such as advertisements and printing, not exceeding 2*l.*, or at the discretion of the taxing officer.

SEALS OF COURT.

Accountant's Charges.

	£	s.	d.
For preparing balance-sheet, investigating accounts, &c., principal's time, per day of eight hours, in- cluding necessary affidavit	2	2	0
Chief clerk's time	1	1	0
Other clerk's time, per day of eight hours	0	10	6
		to	
	0	15	0

These charges to include stationery.

HATHERLEY, C.

JAMES BACON,
Chief Judge in Bankruptcy.

1st January, 1870.

SEALS OF COURT.

THE BANKRUPTCY ACT, 1869.

I, the Right Honourable, William Page, Baron Hatherley, Lord High Chancellor of Great Britain, do hereby, by virtue of the power vested in me by the Bankruptcy Act, 1869, Order that the London Bankruptcy Court shall have a seal describing such Court as "The London Bankruptcy Court;" and that every County Court shall have a seal describing such Court, as it is now described by the seal hitherto used in every such Court respectively.

HATHERLEY, C.

1st January, 1870.

FEES.

THE BANKRUPTCY ACT, 1869.

I, the Right Honourable, William Page, Baron Hatherley, Lord High Chancellor of Great Britain, do, by virtue of the powers vested in me by the Bankruptcy Act, 1869, prescribe that the scale of fees hereto annexed shall be the scale of fees to be charged for any business done by any Court or officer under the said Act.

HATHERLEY, C.

1st January, 1870.

SCALE OF FEES.—TABLE A.

	Stamp Duty.		
	£	s.	d.
Every declaration by a debtor of inability to pay his debts	0	5	0
Every debtor's summons	0	5	0
Every bankruptcy petition	5	0	0
Every bond with sureties	0	5	0
Every affidavit filed, other than proof of debts . .	0	1	0
Every subpoena	0	1	0
Every petition under sect. 125 or 126 of the Act	1	0	0
For despatching notice to creditors or others, exclusive of postage, each notice	0	0	3
Every application for an order of discharge . .	1	0	0
Every special resolution presented to a Registrar for registration under section 125, paragraph 4, stamps denoting a duty computed at the rate of five shillings upon 100 <i>l.</i> or fraction of 100 <i>l.</i> on the gross amount of the estimated assets, not exceeding a total duty of 200 <i>l.</i>	—		
Every extraordinary resolution presented to a Registrar under section 126, stamps denoting a duty computed at the rate of five shillings upon 100 <i>l.</i> or fraction of 100 <i>l.</i> on the gross amount of the composition, not exceeding a total duty of 200 <i>l.</i>	—		
Every application for search for proceedings . .	0	1	0
Every application to a Court or Registrar . . .	0	5	0
Every office copy, each folio of 72 words . . .	0	0	2
On certified statement to be forwarded by the trustee to the Comptroller under section 55 of the Act, stamps denoting a duty computed at the rate of five shillings upon 100 <i>l.</i> or fraction of 100 <i>l.</i> on the gross amount of the assets realized and brought to credit, less the amount brought to credit in such previous statement, not exceeding a total duty of 200 <i>l.</i>	—		
On every record of trial	5	0	0
or such less sum as the Court may specially order.			
Every allocatur by any officer of the Court for any costs, charges, or disbursements, where such bill of costs shall not exceed 5 <i>l.</i> . . .	0	1	6
Exceeding £5 and not exceeding £10 . . .	0	2	6
" 10 " 20 . . .	0	5	0
" 20 " 30 . . .	0	7	6
" 30 " 50 . . .	0	10	0
" 50 " 100 . . .	0	15	0
" 100 " 150 . . .	1	0	0
" 150 " 200 . . .	1	10	0
" 200 " 300 . . .	2	0	0
" 300 " 500 . . .	3	0	0
" 500 " — . . .	5	0	0

TABLE B.		£	s.	d.
Attending Court each sitting		0	2	0
Serving every debtor's summons, bankruptcy petition, or subpoena within two miles, including affidavit of service		0	3	6
Preparing advertisement for Gazette or local paper		0	3	6
Insertion in Gazette		0	3	0
Executing every warrant of seizure, or search warrant, or warrant of apprehension, or order of commitment, within two miles of Court House		0	10	0
Keeping possession—for each day the man is actually in possession; including affidavit of possession being actually kept		0	4	6
(3s. 6d. of the above sum is to be paid to the man in possession, and his receipt produced.)				
High Bailiff's, or in the London Bankruptcy Court officer's, man travelling to place of possession, or to execute a warrant of or order of commitment, or to serve a summons or subpoena, or for any other purpose specially directed by the Court, per mile		0	0	5
His time, per day, where distance exceeds ten miles		0	4	6
His expenses per day		0	4	6
If High Bailiff of a County Court or officer of London Bankruptcy Court directed by the Court personally to travel, per mile		0	0	7
If High Bailiff of a County Court or officer of London Bankruptcy Court directed by the Court personally to travel, his time, per day		0	10	0
If High Bailiff of a County Court or officer of London Bankruptcy Court directed by the Court personally to travel, his expenses, per day		0	10	0

Where an inventory is deemed requisite, and is directed by the trustee to be taken by a High Bailiff or officer of the Court, a proper remuneration may be allowed for taking it, having regard to the time occupied, and the nature of the property included in it.

Where no trustee is appointed by the creditors, or where there is a vacancy in the office of trustee, and the bankruptcy is carried on with the aid of the Registrar as trustee: for realization of the estate 5*l.* per cent. on the first amount of 100*l.* or any less sum realized by the Registrar; 2½ per cent. on the next amount of 400*l.* or any less sum; 1 per cent. on the next amount of 500*l.* or any less sum; and ½ per cent. on all further sums.

On dividend 2*l.* per cent on the first amount of 1000*l.* or any less sum actually divided, and 1 per cent on all further sums.

TABLE C.

The fees and allowances payable on proceedings had after the thirty-first day of December 1869 in respect of any matter which was pending in any Court having jurisdiction in bankruptcy on the said day shall be the same as if those proceedings had been taken before such day, and shall be applied to the same purposes.

We, the undersigned Lords Commissioners of Her Majesty's Treasury, do hereby sanction the foregoing scale of fees, and do direct that the fees to be taken by stamps shall be those mentioned in Table A., and that the fees mentioned in Table B. shall be taken in money, and that the fees and allowances referred to in Table C. shall be taken by stamps or money according as they have hitherto been taken.

And we further direct that the stamp shall be affixed or the money paid in respect of every fee before the proceeding is had in respect of which the fee is payable, and that the charge to be made by the London Gazette for the insertion of each notice authorized by the Act or rules shall be three shillings.

LANSDOWNE.
W. H. GLADSTONE.

1st January, 1870.

I, the Right Honourable William Page, Baron Hatherley, Lord High Chancellor of Great Britain, do, by virtue of the powers vested in me by "The Bankruptcy Act, 1869," and of every other power vested in me, hereby order that all proceedings in, and business of the bankruptcies, and all other matters which were pending in the old London Bankruptcy Court on the thirty-first day of December, one thousand eight hundred and sixty-nine, shall be transferred to the New London Bankruptcy Court.

And I do further order, that the Chief Registrar, Registrars, Accountant in Bankruptcy, Taxing Masters, Official Assignees, and all other Officers holding offices or employed in the Old London Bankruptcy Court shall, until further order, perform the same or the like duties in relation to the business to be performed in the New London Bankruptcy Court as they have respectively performed in the Old London Bankruptcy Court; and that the said business shall be distributed amongst the before-mentioned Officers in the manner in which the business of the Old London Bankruptcy Court was distributed amongst them.

Given under my hand this
first day of January, 1870.

HATHERLEY, C.

RULES AND FORMS

FOR REGULATING THE

PROCEEDINGS IN THE COUNTY
COURTS UNDER THE DEBTORS'
ACT, 1869.

AND THE

FEEES TO BE TAKEN THEREON.

1870.

CONTENTS.

	PAGE
INTERPRETATION	295
JUDGMENT-SUMMONS	295
ORDER OF COMMITMENT	297
COSTS	298
SCHEDULE OF FORMS:	
1.—Application for Judgment-Summons	299
2.—Certified Copy of Order or Judgment	300
3.—Affidavit where Judgment-Summons is sought on an Order of a Court not a County Court	301
4.—Summons to Witness	301
5.—Judgment-Summons	302
6.—Order upon a Judgment-Summons altering Original Order or Judgment	303
7.—Order of Commitment	304
8.—Order of Commitment on an Order or Judgment of a Court other than a County Court	306
9.—Certificate of Payment by a Prisoner	307

We, GEORGE LAKE RUSSELL, JOHN BURY DASENT, JOHN WORLLEDGE, RUPERT ALFRED KETTLE, and WILLIAM FURNER, being Judges of County Courts appointed to frame Rules and Orders for regulating the Practice of the Courts, and Forms of Proceedings therein, under the 32nd section of "The County Courts Act, 1856," have, under the powers vested in us by the said Act and by "The Debtors Act, 1869," framed the following Rules and Forms, and we do hereby certify the same to the Lord Chancellor accordingly.

The Rules, Orders, and Forms now in use in the County Courts, numbered respectively 135, 136, 137, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, and 168, shall, on and from the 1st day of January 1870, cease to be used, and in lieu thereof the following shall, on and from such day, be the Rules and Forms in force and used in the said Courts under the Debtors Act, 1869.

Interpretation.

In the following Rules the word Act shall mean the 32 & 33 Vict. Debtors Act, 1869; and the words "clear days" shall mean c. 62. that in all cases in which any particular number of days is prescribed for the doing any act or for any other purpose, the same shall be reckoned exclusive both of the first and of the last day; and unless there be something in the context inconsistent therewith, the provisions of s. 142 of The County Courts Act, 1846, shall apply to the interpretation of these Rules. 9 & 10 Vict. c. 95, s. 142.

Judgment-Summons.

1. No order of Commitment under the Act shall be made unless a summons to appear and be examined on oath, hereinafter called a judgment-summons, shall have been personally served upon the judgment-debtor.

2. A judgment-summons shall not be issued by a Court 19 & 20 Vict. unless the debtor resides or carries on business within its c. 108, s. 48.

3—9.

district, or unless leave of the Court under section 48 of The County Courts Act, 1856, has been obtained.

Form 1.

3. An application by a judgment creditor for the issue of a judgment-summons under the Act shall be in writing, signed by the applicant or his agent according to the form in the schedule.

Form 2.

4. Where a judgment creditor desires to apply for a judgment-summons to a County Court other than the County Court in which the order or judgment was obtained, he shall obtain from the Registrar of the County Court in which the order or judgment was obtained, a certified copy of the order or judgment in the cause, according to the form in the schedule, and file the same with his application.

5. Where a party desires to enforce by commitment in any County Court a judgment, decree, or order of a Superior Court of law or equity, or of any other competent Court, he shall obtain from such Court an office copy of the judgment, decree, or order he desires so to enforce, and shall file such office copy, together with an affidavit of the sum then due thereon, with the Registrar of the Court of the district in which the party, against whom the same is to be enforced, resides or carries on business.

6. The Registrar of the Court to which the application for a judgment-summons is made shall, upon delivery to him of the certificate of the County Court, or office copy of the judgment, decree, or order of any other Court, file the same and issue thereon a judgment-summons.

Form 5.

7. Every judgment-summons shall be according to the form in the schedule, and be issued not less than ten clear days, and be served not less than five clear days, before the day on which the judgment-debtor is required to appear, except in the case provided for by the next following rule.

8. Where the person applying for the judgment-summons shall state to the Registrar that the judgment debtor is about to remove from his dwelling or place of business, or is keeping out of the way to avoid service, then the judgment summons may be issued and served at any time before the hearing: Provided that the Court shall not act upon a summons issued under this rule, unless at the hearing the judge is satisfied, by evidence on oath, that at the time of the application for the judgment-summons such party was about to remove from his dwelling or place of business, or was keeping out of the way to avoid service, in either of which cases service upon the party at any time before the time appointed for the appearance of such party shall be sufficient.

19 & 20 Vict.
c. 108, s. 48.

9. A judgment-summons may issue without leave of the Court, except in cases provided for either by sect. 48 of The County Courts Act, 1856, or by the last rule.

10. No successive judgment- summonses shall be issued.

10-18.

11. The hearing of a judgment- summons may be adjourned from time to time.

12. Any witness may be summoned to prove the means of the judgment debtor, in the same manner as witnesses are summoned to give evidence upon the hearing of a plaint.

13. Upon the issue of a judgment- summons against a party upon an order or judgment of the Court issuing the judgment- summons the bailiff of such Court shall return into Court any warrant of execution against the goods of such party which may have been issued in the cause.

14. Where a judgment- summons is heard in a Court other than the Court in which the order or judgment was obtained, and an order is made by the judge of the Court in which the judgment- summons is heard altering the terms of the order or judgment, all payments under the new order shall be made into, and execution thereupon against the goods shall be issued by, the Court which has so altered the order. Form 6.

15. Where a certified copy of a judgment is obtained from the Registrar of a County Court, he shall make on the minute of the judgment a memorandum of having given such certificate, and no warrant of execution against the goods or judgment- summons upon such judgment shall issue from such Court, unless it be shown to the satisfaction of the Court or Registrar that no order has been made against the execution debtor in any other Court.

Order of Commitment.

16. An order of commitment made under the Act shall be according to the form in the schedule, and shall, on whatever day it may be issued from the Registrar's office, bear date on the day on which the order for commitment was made, and shall continue in force for one year from such date and no longer. Forms 7, 8.

17. When an order of commitment for non-payment of money is issued the defendant may, at any time before his body is delivered into the custody of the gaoler, pay to the bailiff the amount indorsed on the order as that, on the payment of which, he may be discharged; and on receiving such amount the bailiff shall discharge the defendant, and shall within twenty-four hours after receiving such amount pay over the same to the Registrar of the County Court of which he is an officer. 9 & 10 Vict. c. 95, s. 102.

18. The sum indorsed on the order of commitment, as that upon payment of which the prisoner may be discharged, may be paid to the Registrar of the Court from which the commitment order was issued, or to the gaoler in whose custody the prisoner is. Where it is paid to the Registrar he shall sign and seal a certificate of such payment, and upon re-

19—25. ceiving such certificate by post or otherwise, the gaoler, in whose custody the prisoner shall then be, shall forthwith discharge such prisoner. And where it is paid to the gaoler, he shall, upon payment to him of such amount, together with costs sufficient to pay for transmitting such amount to the Court under the order of which the prisoner was committed, by Post Office order, sign a certificate of such payment and discharge the prisoner, and such costs of transmission shall be part of the prescribed costs.

Form 9.

19. A certificate of payment by a prisoner shall be according to the form in the schedule.

20. Orders of commitment against the same party may be issued concurrently into more than one district; provided that the cost of one order only shall be allowed unless the judge shall otherwise direct.

21. On the hearing of a judgment-summons, where a warrant against the goods has been issued, the costs of such warrant shall not be allowed as against the judgment debtor, unless the judge be satisfied that there was reasonable cause for issuing the warrant.

22. The costs of a judgment-summons shall not be allowed against the judgment debtor, unless some order shall be made thereon; but where an order is made on a judgment-summons the judge may, in his discretion, allow the costs of any previous judgment-summons which have not been served by reason of the judgment debtor having evaded service.

23. Costs of orders of commitment, whether executed or unexecuted, shall be allowed against the defendant, unless the judge shall otherwise direct.

24. An order of commitment under the Act shall not be available against a bankrupt in respect of any debt incurred previous to his order of adjudication, or against any debtor whose debts have been liquidated under section 125 of the Bankruptcy Act, 1869, in respect of any debt incurred previous to the liquidation, or against any debtor from whom a composition has been accepted under section 126 of the said Act, in respect of any debt due to a creditor, whose name and address, and the amount of whose debt was shown in the statement of the debtor produced to a meeting of his creditors, as required by such section.

32 & 33 Vict.
c. 71, ss. 125,
126.

Costs.

25. The costs which shall be payable by a person imprisoned under the Act shall be the fees directed to be taken in proceedings under the Act by any order of the Commissioners of Her Majesty's Treasury under the powers vested in them by The County Courts Act, 1856, and such fees shall be deemed to be and shall be the prescribed costs referred to in section five of the Act.

SCHEDULE OF FORMS.

1.

Application for Judgment-Summons.

THE DEBTORS ACT, 1869.

A.B., Plaintiff.

C.D., Defendant (*address and description
of Plaintiff and Defendant to be added
where judgment that of any other Court*).

I apply for the issue of a judgment-summons against the said Defendant in respect of a judgment [or order] of this Court [or of the County Court of holden at , or of [here set forth the style or other sufficient description of the Court which gave the judgment or made the order];

And I undertake to prove, to the satisfaction of the Court at the hearing, that the Judgment Debtor has or has had since the date of the judgment [or order] the means to pay the sum in respect of which he has made default, and that he has refused or neglected or refuses or neglects to pay the said sum.

I am aware that if I do not prove the same accordingly that I shall have to pay the costs of this summons.

[A.B., Judgment Creditor,
or C.D., Agent to the Judgment Creditor.]

SCHEDULE OF FORMS.

2.
Certified Copy of Order or Judgment.

The County Court of _____, holden at _____
 MINUTES of JUDGMENTS, ORDERS, and other PROCEEDINGS at a Court held at _____ on the
 day of _____ 187 , before _____, Judge of the said Court.

No.	Plaintiff.	Appearance.	Defendant.	Appearance.	Particulars of Claim.	Amount claimed.	Special Defence.	By whom Jury required.	For whom Judgment given.	Amount of Judgment.	Costs.	Order.

Amount of Judgment or Order and Taxed Costs*	£	s.	d.
Paid into Court			
Remaining due on Judgment or Order.			

I HEREBY CERTIFY that the above is a true copy of an entry in the Minute Book, Judgments, Orders, and other Proceedings of the _____ County Court of _____ holden at _____ Dated this _____ day of _____ 187 .

Registrar.

* Note as by the Debtors Act, 1869, a person can only be committed upon making default in payment of any debt, or instalment of any debt, due from him in pursuance of any order or judgment; costs subsequent to the judgment or order must not be inserted on the certificate.

3.

3-4.

Affidavit where Judgment-Summons is sought on an Order of a Court not a County Court.

THE DEBTORS ACT, 1869.

In the County Court of _____ holden
at _____

In the matter of a judgment [or order, or decree] of the
Queen's Bench [or as the case may be].

A.B., Plaintiff,
[Address, Description,]
and

C.D., Defendant,
[Address, Description.]

I, A.B., the above-mentioned Plaintiff, make oath and
say:—

1. That on the _____ day of _____, 187____, I
obtained a judgment [or decree, or order] in (here set forth the
style of the Court in which judgment, decree, or order obtained)
against C.D., the above-named Defendant, for the payment of
the sum of _____

2. That there is still due on the said judgment [or order,
or decree] the sum of _____

Sworn at

&c.

A.B.

4.

Summons to Witness.

THE DEBTORS ACT, 1869.

In the County Court of _____ No. of plaint. _____
at _____ holden

In the matter of a judgment-summons,
(Seal.)

Between A.B., Plaintiff,
and

C.D., Defendant.

You are hereby required to attend at [the Court House in
_____] on _____ the _____ day
of _____ 187____, at the hour of _____

of _____ in the _____ noon, to give evidence 9 & 10 Vict.
in the above matter on behalf of the [Plaintiff or Defendant, c. 95, ss. 85,
as the case may be], and then and there to have and produce 86.
[state any particular documents required], and all other books,
papers, writings, and other documents relating to the said
matter which may be in your custody, possession, or power.
In default of your attendance you will be liable to a penalty
of ten pounds, under 9 & 10 Vict. c. 95.

Dated this _____ day of _____ 187____.

Registrar of the Court

To

5.

5.

Judgment-Summons.

THE DEBTORS ACT, 1869.

In the [*title of Court issuing summons*].

No. of plaint.

No. of judgment-summons.

Between A.B., Plaintiff,

[*Address, Description,*]

and

C.D., Defendant,

[*Present address, description, and
if known, place of employment.*]

Whereas the Plaintiff obtained a judgment [*or if no judgment has been obtained, or if a fresh order has been obtained upon a judgment, an order*] against you, the above-named Defendant, in the County Court of _____ holden at _____ on the _____ day of _____ 187 , for the payment of £ _____ together with £ _____ for costs, and in payment thereof [*or of* _____ part thereof] you have made default:

[*or, Whereas the Plaintiff obtained a judgment against the Defendant in Her Majesty's Court of Queen's Bench [or as the case may be] on the _____ day of _____, for the sum of £ _____, and there is now due and payable upon the said judgment the sum of £ _____*]:

[*or, Whereas by a decree [or order] made by the Master of the Rolls [or by Vice-Chancellor, here insert the name of the Vice-Chancellor making the order] on the _____ day of _____, the Defendant was ordered to pay to the Plaintiff the sum of £ _____, and there is now due and payable upon the said decree [or order] the sum of £ _____*]:

You are therefore hereby summoned to appear personally in this Court at [*place where Court holden*] on the _____ day of _____ 187 , at the hour of _____ in the _____ noon, to be examined on oath by the Court touching the means you have or have had since the date of the judgment [*or order*] to pay the said last-mentioned sum.

Dated this _____ day of _____ 187 .

Registrar of the Court.

N.B.—*To be added where judgment-summons issues on a judgment order of a County Court.*

Amount of judgment or order, including taxed costs £ s. d.

Paid into Court

Amount unpaid and due on judgment	£	s.	d.	6.
Deduct amount of instalments at s. per month, which were not required to have been paid before the date of the summons				

Amount upon the payment of which no further
proceedings can be had until default in payment
of next instalment

*When issued under the County Courts Act, 1856, or under Rule
144, insert "Issued by leave of the Judge."*

6

*Order upon a Judgment-Summons altering Original Order or
Judgment.*

THE DEBTORS ACT, 1869.

In the [title of Court issuing summons].

No. of plaint.

No. of judgment-summons.

Between A.B., Plaintiff,

[Address, Description,]

and

C.D., Defendant.

[Present address, description, and
if known, place of employment.]

Whereas the Plaintiff obtained a judgment [or order]
against the Defendant in the County Court of
holden at on the day of
187 , for the payment of £ , together with £
for costs, and in payment thereof [or of part
thereof] the Defendant hath made default :

[or, Whereas the Plaintiff obtained a judgment against the
Defendant in Her Majesty's Court of Queen's Bench [or as
the case may be] on the day of
for the sum of £ , and there is now due and payable
upon the said judgment the sum of]:

[or, Whereas by a decree [or order] made by the Master of
the Rolls [or by Vice-Chancellor] [here insert the name of the
Vice-Chancellor making the order] on the day of
 , the Defendant was ordered to pay to the
Plaintiff the sum of £ , and there is now due and pay-
able upon the said decree [or order] the sum of £]:

And whereas a summons was, at the instance of the
Plaintiff, duly issued out of this Court, by which the De-
fendant was required to appear personally at this Court on
the day of 187 , to be ex-
amined on oath touching the means he had then or had had

7. since the date of the judgment [or order] to pay the said sum, which summons was proved to this Court to have been personally and duly served on the Defendant:

Acknowledgment of payment into Court.				Received by
Date.	£	s.	d.	

It is ordered, that the Defendant do pay the amount still due on the said judgment, and the costs of the said summons, and its hearing, as stated at the foot of this order, to the Registrar of this Court, by instalments of £ for every days; the first payment to be made on the day of 187 .

Given under the seal of the Court, this day of 187 .

Registrar of the Court.

£ s. d.
Amount on judgment or order remaining due
Costs of judgment-summons and its hearing

£

7

Order of Commitment.

THE DEBTORS ACT, 1869.

In the [title of Court ordering committal].

No. of plaint.

No. of judgment-summons.

No. of order.

Between A.B., Plaintiff,

and

C.D., Defendant.

To the High Bailiff and others the Bailiffs of the said Court and all Peace Officers within the jurisdiction of the said Court, to the Governor or Keeper of the [prison used by the Court].

Whereas the Plaintiff obtained a judgment [or order] against the Defendant in the County Court of holden at on the day of 187 , for the payment of £ , together with £ for costs, and in payment thereof [or of shillings part thereof] the Defendant hath made default:

And whereas a summons was, at the instance of the Plaintiff, duly issued out of this Court, by which the Defendant was required to appear personally at this Court

on the day of 187 , to be examined on oath touching the means he had then or had had since the date of the judgment [*or order*] to pay the said sum, which summons was proved to this Court to have been personally and duly served on the Defendant:

And whereas, at the hearing of the said summons, it has now been proved to the satisfaction of the Court that the Defendant now has [*or has had*] since the date of the judgment [*or order*], the means to pay the sum in respect of which he made default as aforesaid, and has refused [*or neglected*], [*or then refused or neglected*] to pay the same.

Now, therefore, it is ordered, that the Defendant shall be committed to prison for * days, unless he shall sooner pay the sums, in payment of which he has so made default; together with the prescribed costs herein-after mentioned: * [*not exceeding six weeks*].

These are, therefore, to require you the said High Bailiff, Bailiffs, and others, to take the Defendant, and to deliver him to the Governor or Keeper of the [*prison used by the Court*], and you the said Governor or Keeper to receive the Defendant, and him safely keep in the said prison for days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Given under the seal of this [*insert date of order*] day of 187 .

E.P.,

Registrar of the Court.

£ s. d.

Amount of judgment or order, including

costs

Paid into Court

Amount unpaid and due on judgment .

Deduct amount of instalments at s.
per month, which were not required to
have been paid before the date of this
warrant

Costs of judgment-summons and pound-
age on this order . . .

Amount upon the payment of which the
prisoner is to be discharged . .

This order remains in force for one year from the date thereof.

8.

8

*Order of Commitment on an Order or Judgment of a Court
other than a County Court.*

THE DEBTORS ACT, 1869.

In the [title of Court ordering committal.]

No. of plaint.

No. of judgment-summons.

No. of order.

Between A.B., Plaintiff

and

C.D., Defendant.

To the High Bailiff and others the Bailiffs of the said Court and all Peace Officers within the jurisdiction of the said Court, to the Governor or Keeper of the [prison used by the Court].

Whereas the plaintiff obtained a judgment against the Defendant in Her Majesty's Court of Queen's Bench [or as the case may be] on the day of , for the sum of £ , and there is now due and payable upon the said judgment the sum of :

[or, Whereas by a decree [or order] made by the Master of the Rolls [or by Vice-Chancellor] [insert the name of the Vice-Chancellor making the order] on the day of the Defendant was ordered to pay to the Plaintiff the sum of £ , and there is now due and payable upon the said decree [or order] the sum of £]:

And whereas a summons was, at the instance of the Plaintiff, duly issued out of this Court, by which the Defendant was required to appear personally at this Court on the day 187 , to be examined on oath touching the means he had then or had had since the date of the judgment [or order] to pay the said sum, which summons was proved to this Court to have been personally and duly served on the Defendant:

And whereas, at the hearing of the said summons, it has now been proved to the satisfaction of the Court that the Defendant now has [or has had] since the date of the judgment [or order], the means to pay the sum in respect of which he made default as aforesaid, and has refused [or neglected], [or then refused or neglected] to pay the same.

Now, therefore, it is ordered, that the Defendant shall be committed to prison for * days, unless he shall sooner pay the sums, in payment of which he has so made default; together with the prescribed costs herein-after mentioned.

* [not exceeding six weeks].

These are, therefore, to require you the said High Bailiff, Bailiffs, and others, to take the Defendant, and to deliver him to the Governor or Keeper of the [prison used by the

Court], and you the said Governor or Keeper to receive the Defendant, and him safely keep in the said prison for _____ 9.
 days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Given under the seal of _____ this [insert date of order] day of _____ 187 .

E.F.,

Registrar of the Court.

Amount of judgment or order remaining
 due £ s. d.

Costs of judgment-summons and pound-
 age on this order

Amount upon the payment of which the
 prisoner is to be discharged

This order remains in force one year from the date thereof.

9

Certificate of Payment by a Prisoner.

THE DEBTORS ACT, 1869.

I hereby certify, that the Defendant, who was committed to my [or your] custody by virtue of an order of commitment under the seal of this Court [or of the County Court of _____ holden at _____], bearing date the _____ day of _____ 187 , has paid and satisfied the sum of money for the non-payment whereof he was so committed, together with all costs due and payable by him in respect thereof; and that the Defendant may, in respect of such order, be forthwith discharged out of my [or your] custody.

Given under my hand [or the seal of the Court], this
 day of _____ 187 .

Gaoler [or Registrar of the County
 Court of _____, holden
 at _____].

To the Governor or Keeper
 of _____ .

GEORGE LAKE RUSSELL.
 J. B. DASENT.
 JOHN WORLLEDGE.
 RUPERT KETTLE.
 WM. FURNER.

I approve of these Rules and Forms to come into force in all County Courts on the first day of January, 1870.

HATHERLEY, C.

WHEREAS by the County Courts Act, 1856, section 79, it was enacted, that the Commissioners of Her Majesty's Treasury, from time to time, with the consent of the Lord Chancellor, might lessen or increase the fees which were specified in Schedule (C) to that Act, or which were then payable on proceedings in the County Courts taken under any Act not therein-before recited, and might substitute other fees in lieu thereof, or might order new fees to be paid on any proceedings which were then, or should thereafter be authorized to be taken in such Courts, whether any fee was then payable thereon or not.

And whereas proceedings are authorized to be taken in such Courts by the Debtors Act, 1869.

In pursuance of the power given by the above-recited Act, we, the undersigned, two of the Commissioners of Her Majesty's Treasury, whose names are hereunto subscribed, do hereby, with the consent of the Lord Chancellor, order that, on and after the first day of January 1870, the several fees, or sums in the name of fees, specified in the Schedule hereunder written, shall be taken on the proceedings therein mentioned; and that the fees so authorized to be taken shall be received by the Registrars of the different County Courts, and shall be accounted for and paid over by them to the Treasurers of their respective Courts.

LANDSDOWNE.

W. H. GLADSTONE.

I approve of the annexed Schedule of Fees.

HATHERLEY, C.

22nd December, 1869.

SCHEDULE.

For every judgment-summons under the Debtors Act, 1869, Threepence in the pound on so much of the amount of the original demand as, in obedience to the order of the Court, should have been paid at the time of the issue of the summons.

Where such last-mentioned amount does not exceed twenty shillings, an additional fee of Sixpence; and where such amount does exceed twenty shillings, an additional fee of One Shilling.

For every hearing of the matters mentioned in such judgment-summons, Sixpence in the pound on the amount upon which the fee on the summons is calculated.

For issuing every order of commitment, Eighteenpence in the pound on the amount upon which the fee on the summons is calculated.

ORDER EXCLUDING CERTAIN COUNTY COURTS FROM BANKRUPTCY JURISDICTION.

THE BANKRUPTCY ACT, 1869.

I, the Right Honourable William Page, Baron Hatherley, Lord High Chancellor of Great Britain, do, by virtue of the powers vested in me by the Bankruptcy Act, 1869, hereby order that the County Courts mentioned in the first column of the Schedule hereto annexed, marked A, shall be and they are hereby excluded from having jurisdiction in bankruptcy, in respect of any matter or proceeding had or taken under the said Act; and I do further order that, for the purposes of bankruptcy jurisdiction, the districts of such Courts shall be attached to the County Courts, the names of which are respectively printed in the column marked B opposite to the names of the respective County Courts excluded hereby from bankruptcy jurisdiction.

Given under my hand this 1st day of January, 1807.

HATHERLEY, C.

A. Courts which are excluded from Bankruptcy Jurisdiction.	B. Courts to which the Districts of the excluded Courts are attached.
The County Court of Northumberland, holden at Alnwick, Belford, Bellingham, Berwick, Hexham, Morpeth, North Shields, Rothbury, and Wooler; and the County Court of Durham, holden at Gateshead, South Shields, and Shotley Bridge . . .)	The County Court of Northumberland, holden at NEWCASTLE, in Circuit 1.
The County Court of Durham, holden at Seaham Harbour, and Hartlepool . . .)	The County Court of Durham, holden at SUNDERLAND, in Circuit 2.
The County Court of Durham, holden at Wolsingham, and Bishops Auckland)	The County Court of Durham, holden at DURHAM, in Circuit 2.

A Courts which are excluded from Bankruptcy Jurisdiction.	B. Courts to which the Districts of the excluded Courts are attached.
The County Court of Northumberland, holden at Haltwhistle; and the County Court of Cumberland, holden at Alston, Brampton, Penrith, and Wigton }	The County Court of Cumberland, holden at CARLISLE, in Circuit 3.
The County Court of Cumberland, holden at Keswick }	The County Court of Cumberland, holden at COCKERMOUTH, in Circuit 3.
The County Court of Westmoreland, holden at Ambleside, Appleby, and Kirkby Lonsdale }	The County Court of Westmoreland, holden at KIRKBY KENDAL, in Circuit 3.
The County Court of Lancashire, holden at Garstang, Kirkham, Lancaster, and Poulton-le-Fylde }	The County Court of Lancashire, holden at PRESTON, in Circuit 4.
The County Court of Lancashire, holden at Haslingden, Accrington, and Clitheroe }	The County Court of Lancashire, holden at BLACKBURN, in Circuit 4.
The County Court of Yorkshire, holden at Saddleworth and Rochdale; and the County Court of Lancashire, holden at Bacup }	The County Court of Lancashire, holden at OLDHAM, in Circuit 5.
The County Court of Lancashire, holden at Ormskirk and St. Helen's }	The County Court of Lancashire, holden at LIVERPOOL, in Circuit 6.
The County Court of Cheshire, holden at Runcorn }	The County Court of Lancashire, holden at WARRINGTON, in Circuit 7.
The County Court of Flintshire, holden at Holywell, Mold, and Flint }	The County Court of Cheshire, holden at CHESTER, in Circuit 7.
The County Court of Cheshire, holden at Northwich; and the County Court of Shropshire, holden at Market Drayton and Whitechurch }	The County Court of Cheshire, holden at NANTWICH and CREWE, in Circuit 7.
The County Court of Cheshire, holden at Altrincham }	The County Court of Lancashire, holden at MANCHESTER, in Circuit 8.

A. Courts which are excluded from Bankruptcy Jurisdiction.	B. Courts to which the Districts of the excluded Courts are attached.
The County Court of Cheshire, holden at Hyde; and the County Court of Derbyshire holden at Glossop . . . }	The County Court of Lancashire, holden at ASHTON-UNDER-LYNE, in Circuit 9.
The County Court of Derbyshire, holden at Chapel-en-le-Frith . . . }	The County Court of Cheshire, holden at STOCKPORT, in Circuit 9.
The County Court of Cheshire, holden at Congleton and Sandbach; and the County Court of Staffordshire, holden at Leek . . . }	The County Court of Cheshire, holden at MACCLESFIELD, in Circuit 9.
The County Court of Lancashire, holden at Bury, Chorley, and Leigh . . }	The County Court of Lancashire, holden at BOLTON, in Circuit 10.
The County Court of Yorkshire, holden at Settle, Skipton, and Keighley . }	The County Court of Yorkshire, holden at BRADFORD, in Circuit 11.
The County Court of Lancashire, holden at Colne; and the County Court of Yorkshire, holden at Todmorden . . }	The County Court of Lancashire, holden at BURNLEY, in Circuit 11.
The County Court of Yorkshire, holden at Holmfirth . . . }	The County Court of Yorkshire, holden at HUDDERSFIELD, in Circuit 12.
The County Court of Yorkshire, holden at Doncaster, Rotherham, and Thorne; and the County Court of Nottinghamshire, holden at Worksop . . }	The County Court of Yorkshire, holden at SHEFFIELD, in Circuit 13.
The County Court of Yorkshire, holden at Goole, and Pontefract . . . }	The County Court of Yorkshire, holden at WAKEFIELD, in Circuit 14.
The County Court of Yorkshire, holden at Otley . . . }	The County Court of Yorkshire, holden at LEEDS, in Circuit 14.
The County Court of Durham, holden at Barnard Castle, and Darlington; and the County Court of Yorkshire, holden at Stokesley and Whitby . . }	The County Court of Durham, holden at STOCKTON-ON-TEES and MIDDLESBOROUGH, in Circuit 15.

A. Courts which are excluded from Bankruptcy Jurisdiction.	B. Courts to which the Districts of the excluded Courts are attached.
The County Court of Yorkshire, holden at Easingwold, Knaresborough, Pocklington, Selby, and Tadcaster . . . }	The County Court of Yorkshire, holden at YORK, in Circuit 15.
The County Court of Yorkshire, holden at Helmsley, Leyburn, Richmond, Ripon, and Thirsk . . . }	The County Court of Yorkshire, holden at NORTH-ALLERTON, in Circuit 15.
The County Court of Yorkshire, holden at Bridlington, and New Malton . . }	The County Court of Yorkshire, holden at SCARBOROUGH, in Circuit 16.
The County Court of Yorkshire, holden at Beverley, Great Driffield, Hedon, and Howden . . . }	The County Court of Yorkshire, holden at KINGSTON-ON-HULL, in Circuit 16.
The County Court of Lincolnshire, holden at Barton-on-Humber, Brigg, Caistor, and Louth . . . }	The County Court of Lincolnshire, holden at GREAT GRIMSBY, in Circuit 17.
The County Court of Nottinghamshire, holden at East Retford; and the County Court of Lincolnshire, holden at Gainsborough, Horncastle, and Market Rasen . . . }	The County Court of Lincolnshire, holden at LINCOLN, in Circuit 17.
The County Court of Lincolnshire, holden at Sleaford, and Spilsby . . }	The County Court of Lincolnshire, holden at BOSTON, in Circuit 17.
The County Court of Nottinghamshire, holden at Bingham, Mansfield, and Newark; and the County Court of Lincolnshire, holden at Grantham . }	The County Court of Nottinghamshire, holden at NOTTINGHAM, in Circuit 18.
The County Court of Derbyshire, holden at Alfreton, Bakewell, Belper, Ilkeston, and Wirksworth . . . }	The County Court of Derbyshire, holden at DERBY, in Circuit 19. .
The County Court of Derbyshire, holden at Ashbourne; and the County Court of Leicestershire, holden at Ashby-de-la-Zouch; and the County Court of Staffordshire, holden at Uttoxeter . . . }	The County Court of Staffordshire, holden at BURTON-ON-TRENT, in Circuit 19.

A. Courts which are excluded from Bankruptcy Jurisdiction.	B. Courts to which the Districts of the excluded Courts are attached.
The County Court of Leicestershire, holden at Hinckley, Loughborough, Lutterworth, Market Bosworth, Market Harborough, and Melton Mowbray; and the County Court of Rutlandshire, holden at Oakham and Uppingham	The County Court of Leicestershire, holden at LEICESTER, in Circuit 20.
The County Court of Warwickshire, holden at Atherstone, Solihull, and Tamworth; and the County Court of Worcestershire, holden at Redditch	The County Court of Warwickshire, holden at BIRMINGHAM, in Circuit 21.
The County Court of Warwickshire, holden at Nuneaton and Rugby	The County Court of Warwickshire, holden at COVENTRY, in Circuit 22.
The County Court of Warwickshire, holden at Alcester, Southam, and Stratford	The County Court of Warwickshire, holden at WARWICK, in Circuit 22.
The County Court of Shropshire, holden at Cleobury; and the County Court of Worcestershire, holden at Tenbury	The County Court of Worcestershire, holden at KIDDERMINSTER, in Circuit 23.
The County Court of Worcestershire, holden at Bromsgrove, Droitwich, Evesham, Great Malvern, and Pershore; and the County Court of Herefordshire, holden at Bromyard and Ledbury	The County Court of Worcestershire, holden at WORCESTER, in Circuit 23.
The County Court of Glamorganshire, holden at Bridgend and Cowbridge	The County Court of Glamorganshire, holden at CARDIFF, in Circuit 24.
The County Court of Monmouthshire, holden at Chepstow, Monmouth, Pontypool, and Usk	The County Court of Monmouthshire, holden at NEWPORT, in Circuit 24.
The County Court of Monmouthshire, holden at Abergaveuny; and the County Court of Brecknockshire, holden at Crickhowell	The County Court of Monmouthshire, holden at TREDEGAR, in Circuit 24.

A. Courts which are excluded from Bankruptcy Jurisdiction.	B. Courts to which the Districts of the excluded Courts are attached.
The County Court of Staffordshire, holden at Lichfield	The County Court of Staffordshire, holden at WALLSALL, in Circuit 25.
The County Court of Staffordshire, holden at Newcastle-under-Lyme	The County Court of Staffordshire, holden at HANLEY, BURSLEM, and TUNSTALL, in Circuit 26.
The County Court of Staffordshire, holden at Cheadle	The County Court of Staffordshire, holden at STOKE ON-TRENT and LONGTON, in Circuit 26.
The County Court of Staffordshire, holden at Rugeley and Stone; and the County Court of Shropshire, holden at Newport	The County Court of Staffordshire, holden at STAFFORD, in Circuit 26.
The County Court of Shropshire, holden at Wem	The County Court of Shropshire, holden at SHREWSBURY, in Circuit 27.
The County Court of Brecknockshire, holden at Hay; and the County Court of Herefordshire, holden at Ross	The County Court of Herefordshire, holden at HEREFORD, in Circuit 27.
The County Court of Shropshire, holden at Bridgnorth and Wellington	The County Court of Shropshire, holden at MADELEY, in Circuit 27.
The County Court of Shropshire, holden at Bishops Castle and Ludlow; and the County Court of Herefordshire, holden at Kington; and the County Court of Radnorshire, holden at Knighton and Presteigne	The County Court of Herefordshire, holden at LEOMINSTER, in Circuit 27.
The County Court of Brecknockshire, holden at Builth; and the County Court of Radnorshire, holden at Rhaidr; and the County Court of Montgomeryshire, holden at Llanfyllin, Llanidloes, and Welchpool	The County Court of Montgomeryshire, holden at NEWTOWN, in Circuit 28.

A. Courts which are excluded from Bankruptcy Jurisdiction.	B. Courts to which the Districts of the excluded Courts are attached.
The County Court of Cardiganshire, holden at Aberayron; and the County Court of Merionethshire, holden at Dolgelly; and the County Court of Montgomeryshire, holden at Machynlleth	The County Court of Cardiganshire, holden at ABERYSTWITH, in Circuit 28.
The County Court of Denbighshire, holden at Denbigh, and Llanrwst; and the County Court of Flintshire, holden at St. Asaph, and Rhyl; and the County Court of Carnarvonshire, holden at Carnarvon, Conway, Portmadoc, and Pwllheli; and the County Court of Anglesey, holden at Llangefni and Holyhead	The County Court of Carnarvonshire, holden at BANGOR, in Circuit 29.
The County Court of Merionethshire, holden at Bala, and Corwen; and the County Court of Denbighshire, holden at Llangollen, and Ruthin; and the County Court of Shropshire, holden at Oswestry	The County Court of Denbighshire, holden at WREXHAM, in Circuit 29
The County Court of Brecknockshire, holden at Brecknock	The County Court of Glamorganshire, holden at MERTHYR TYDFIL, in Circuit 30.
The County Court of Carmarthenshire, holden at Llandeilo-fawr, Llandovery, Llanelly, Newcastle-in-Emlyn; and the County Court of Pembrokeshire, holden at Haverfordwest, Narberth, and Pembroke; and the County Court of Cardiganshire, holden at Cardigan and Lampeter	The County Court of Carmarthenshire, holden at CARMARTHEN, in Circuit 31.
The County Court of Norfolk, holden at Attleborough, Aylsham, East Dereham, Holt, Little Walsingham, North Walsham, Thetford, and Wymondham	The County Court of Norfolk, holden at NORWICH, in Circuit 32.
The County Court of Norfolk, holden at Downham Market, and Swaffham; and the County Court of Cambridgeshire, holden at Wisbeach; and the County Court of Lincolnshire, holden at Holbeach	The County Court of Norfolk, holden at KING'S LYNN, in Circuit 32.

A. Courts which are excluded from Bankruptcy Jurisdiction.	B. Courts to which the Districts of the excluded Courts are attached.
The County Court of Suffolk, holden at Mildenhall and Stowmarket . . . }	The County Court of Suffolk, holden at BURY ST. EDMUNDS, in Circuit 33.
The County Court of Suffolk, holden at Eye and Diss, Framlingham and Saxmundham, and Woodbridge; and the County Court of Norfolk, holden at Harleston; and the County Court of Suffolk, holden at Hadleigh . . . }	The County Court of Suffolk, holden at IPSWICH, in Circuit 33.
The County Court of Suffolk, holden at Beccles and Bungay, Halesworth and Lowestoft . . . }	The County Court of Norfolk, holden at GREAT YARMOUTH, in Circuit 33.
The County Court of Northamptonshire, holden at Daventry, Kettering, Thrapstone, Towcester, and Wellingborough; and the County Court of Buckinghamshire, holden at Newport Pagnell . . . }	The County Court of Northamptonshire, holden at NORTHAMPTON, in Circuit 34.
The County Court of Lincolnshire, holden at Bourne, Spalding, and Stamford; and the County Court of Northamptonshire, holden at Oundle; and the County Court of Cambridgeshire, holden at March; and the County Court of Huntingdonshire, holden at Huntingdon . . . }	The County Court of Northamptonshire, holden at PETERBOROUGH, in Circuit 34.
The County Court of Cambridgeshire, holden at Ely, Newmarket, and Soham; and the County Court of Hertfordshire, holden at Royston; and the County Court of Essex, holden at Saffron Walden; and the County Court of Suffolk, holden at Haverhill . . . }	The County Court of Cambridgeshire, holden at CAMBRIDGE, in Circuit 35.
The County Court of Bedfordshire, holden at Ampthill and Biggleswade; and the County Court of Huntingdonshire, holden at St. Neot's . . . }	The County Court of Bedfordshire, holden at BEDFORD, in Circuit 35.
The County Court of Oxfordshire, holden at Bicester, Chipping Norton, Witney, and Woodstock; and the County Court of Berkshire, holden at Abingdon, Wallingford, and Wantage . . . }	The County Court of Oxfordshire, holden at OXFORD, in Circuit 36.

A. Courts which are excluded from Bankruptcy Jurisdiction.	B. Courts to which the Districts of the excluded Courts are attached.
The County Court of Buckinghamshire, holden at Buckingham; and the County Court of Northamptonshire, holden at Brackley; and the County Court of Worcestershire, holden at Shipston	The County Court of Oxfordshire, holden at BANBURY, in Circuit 36.
The County Court of Oxfordshire, holden at Thame; and the County Court of Buckinghamshire, holden at Chesham and High Wycombe	The County Court of Buckinghamshire, holden at AYLESBURY, in Circuit 37.
The County Court of Bedfordshire, holden at Hitchin and Leighton Buzzard	The County Court of Bedfordshire, holden at LUTON, in Circuit 37.
The County Court of Hertfordshire, holden at Watford	The County Court of Hertfordshire, holden at ST. ALBAN'S, in Circuit 37.
The County Court of Middlesex, holden at Uxbridge	The County Court of Berkshire, holden at WINDSOR, in Circuit 37.
The County Court of Essex, holden at Braintree, Brentwood, Dunmow, Maldon, Rochford, and Romford	The County Court of Essex, holden at CHELMSFORD, in Circuit 38.
The County Court of Essex, holden at Halstead and Harwich; and the County Court of Suffolk, holden at Sudbury	The County Court of Essex, holden at COLCHESTER, in Circuit 38.
The County Court of Essex, holden at Waltham	The County Court of Middlesex, holden at EDMONTON, in Circuit 38.
The County Court of Hertfordshire, holden at Bishop Stortford	The County Court of Hertfordshire, holden at HERTFORD, in Circuit 38.
The County Court of Kent, holden at Bromley; and the County Court of Surrey, holden at Dorking, Epsom, and Reigate	The County Court of Surrey, holden at CROYDON, in Circuit 45.

A. Courts which are excluded from Bankruptcy Jurisdiction.	B. Courts to which the Districts of the excluded Courts are attached.
The County Court of Surrey, holden at Farnham and Godalming; and the County Court of Hampshire, holden at Alton }	The County Court of Surrey, holden at GUILDFORD, in Circuit 45.
The County Court of Surrey, holden at Chertsey }	The County Court of Surrey, holden at KINGSTON, in Circuit 45.
The County Court of Berkshire, holden at Hungerford }	The County Court of Berk- shire, holden at NEWBURY, in Circuit 45.
The County Court of Oxfordshire, } holden at Henley-on-Thames . . }	The County Court of Berk- shire, holden at READING, in Circuit 45.
The County Court of Kent, holden at Woolwich }	The County Court of Kent, holden at GREENWICH, in Circuit 47.
The County Court of Kent, holden at Dartford, Gravesend, Sheerness, and Sittingbourne }	The County Court of Kent, holden at ROCHESTER, in Circuit 48.
The County Court of Kent, holden at Seven Oaks and Tonbridge; and the County Court of Sussex, holden at East Grinstead }	The County Court of Kent, holden at TONBRIDGE WELLS, in Circuit 48.
The County Court of Kent, holden at Ashford, Deal, Dover, Faversham, Folkestone, Hythe, Margate, Rams- gate, and Sandwich }	The County Court of Kent, holden at CANTERBURY, in Circuit 49.
The County Court of Sussex, holden at Arundel, Chichester, Cuckfield, Hor- sham, Midhurst, Petworth, and Wor- thing }	The County Court of Sussex, holden at BRIGHTON, in Circuit 50.
The County Court of Kent, holden at Romney, Tenterden, and Cranbrook; and the County Court of Sussex, holden at Rye }	The County Court of Sussex, holden at HASTINGS, in Circuit 50.
The County Court of Hampshire, } holden at Petersfield }	The County Court of Hamp- shire, holden at PORTS- MOUTH, in Circuit 51.

A. Courts which are excluded from Bankruptcy Jurisdiction.	B. Courts to which the Districts of the excluded Courts are attached.
The County Court of Hampshire, holden at Basingtoke, Bishop's Waltham, Lyminster, Romsey, and Winchester }	The County Court of Hampshire, holden at SOUTH-AMPTON, in Circuit 51.
The County Court of Wiltshire, holden at Warminster and Westbury . . }	The County Court of Somersetshire, holden at FROME, in Circuit 52.
The County of Wiltshire, holden at Calne, Malmesbury, and Marlborough; and the County Court of Gloucestershire, holden at Cirencester; and the County Court of Berkshire, holden at Farringdon }	The County Court of Wiltshire, holden at SWINDON, in Circuit 52.
The County Court of Wiltshire, holden at Bradford, Chippenham, Devizes, Melksham, and Trowbridge . . }	The County Court of Somersetshire, holden at BATH, in Circuit 52.
The County Court of Gloucestershire, holden at Northleach, Stow, Tewkesbury, and Winchcomb . . . }	The County Court of Gloucestershire, holden at CHELTENHAM, in Circuit 53.
The County Court of Gloucestershire, holden at Dursley, Stroud, Newnham, and Newent }	The County Court of Gloucestershire, holden at GLOUCESTER, in Circuit 53.
The County Court of Gloucestershire, holden at Chipping Sodbury and Thornbury }	The County Court of Gloucestershire, holden at BRISTOL, in Circuit 54.
The County Court of Dorsetshire, holden at Blandford, Bridport, and Weymouth }	The County Court of Dorsetshire, holden at DORCHESTER, in Circuit 55.
The County Court of Dorsetshire, holden at Wareham and Wimborne Minster; and the County Court of Hampshire, holden at Christchurch . }	The County Court of Dorsetshire, holden at POOLE, in Circuit 55.
The County Court of Hampshire, holden at Andover and Fordingbridge; and the County Court of Dorsetshire, holden at Shaftesbury . }	The County Court of Wiltshire, holden at SALISBURY, in Circuit 55.

A. Courts which are excluded from Bankruptcy Jurisdiction.	B. Courts to which the Districts of the excluded Courts are attached.
The County Court of Somersetshire, holden at Weston-super-Mare . . }	The County Court of Somersetshire, holden at BRIDGE-WATER, in Circuit 56.
The County Court of Somersetshire, holden at Axbridge and Temple Cloud }	The County Court of Somersetshire, holden at WELLS, in Circuit 56.
The County Court of Somersetshire, holden at Crewkerne, Langport, and Wincanton }	The County Court of Somersetshire, holden at YEovil, in Circuit 56.
The County Court of Somersetshire, holden at Chard, Wellington, and Williton }	The County Court of Somersetshire, holden at TAUNTON, in Circuit 56.
The County Court of Devonshire, holden at Axminster, Crediton, Honiton, Newton Abbott and Torquay, and Tiverton }	The County Court of Devonshire, holden at EXETER, in Circuit 57.
The County Court of Devonshire, holden at Bideford, Holsworthy, South Molton, and Torrington }	The County Court of Devonshire, holden at BARN-STAPLE, in Circuit 57.
The County Court of Devonshire, holden at Kingsbridge, Oakhampton, Tavistock, and Totnes and Churston Ferrers; and the County Court of Cornwall, holden at Launceston and Liskeard }	The County Court of Devonshire, holden at EAST STONEHOUSE, in Circuit 58.
The County Court of Cornwall, holden at Bodmin, Camelford, Falmouth, Helston, Penzance, Redruth, St. Austell, and St. Columb Major . . }	The County Court of Cornwall, holden at TRURO, in Circuit 59.

HATHERLEY, C.

NOTE.

The following County Courts, not having had attached to them the District of any County Court excluded from Bankruptcy Jurisdiction, and not being themselves excluded from Bankruptcy Jurisdiction, are not mentioned in the foregoing Order; but as *they have Bankruptcy*

Jurisdiction, their names are here given for the information of the public.

- The County Court of Cumberland, holden at WHITEHAVEN, in Circuit 3.
- The County Court of Lancashire, holden at ULVERSTONE, in Circuit 3.
- The County Court of Lancashire, holden at SALFORD, in Circuit 5.
- The County Court of Cheshire, holden at BIRKENHEAD, in Circuit 7.
- The County Court of Lancashire, holden at WIGAN, in Circuit 10.
- The County Court of Yorkshire, holden at DEWSBURY, in Circuit 12.
- The County Court of Yorkshire, holden at HALIFAX, in Circuit 12.
- The County Court of Yorkshire, holden at BARNESLEY, in Circuit 14.
- The County Court of Derbyshire, holden at CHESTERFIELD, in Circuit 19.
- The County Court of Worcestershire, holden at STOURBRIDGE, in Circuit 22.
- The County Court of Worcestershire, holden at DUDLEY, in Circuit 23.
- The County Court of Staffordshire, holden at OLDBURY, in Circuit 25.
- The County Court of Staffordshire, holden at WOLVERHAMPTON, in Circuit 25.
- The County Court of Glamorganshire, holden at ABERDARE, in Circuit 30.
- The County Court of Glamorganshire, holden at PONTYPRIDD, in Circuit 30.
- The County Court of Glamorganshire, holden at SWANSEA, in Circuit 30.
- The County Court of Glamorganshire, holden at NEATH, in Circuit 31.
- The County Court of Hertfordshire, holden at BARNET, in Circuit 37.
- The County Court of Middlesex, holden at BRENTFORD, in Circuit 43.
- The County Court of Surrey, holden at WANDSWORTH, in Circuit 45.
- The County Court of Kent, holden at MAIDSTONE, in Circuit 48.
- The County Court of Sussex, holden at LEWES, in Circuit 50.
- The County Court of Hampshire, holden at NEWPORT and RYDE, in Circuit 51.

REGULÆ GENERALES,

MICHAELMAS TERM, 1869,

FOR

REGULATING THE PRACTICE UNDER
AND CARRYING INTO EFFECT THE FIRST
PART OF THE DEBTORS ACT, 1869.

IN PURSUANCE of the Common Law Procedure Act, 1852, and the Debtors Act, 1869, IT IS ORDERED, that on and after the 1st day of January, 1870, the following Rules shall be in force for regulating the practice under, and carrying into effect the first part of the said "Debtors' Act, 1869." 1—3.

1. All applications to commit to prison under Section 5 shall, in the first instance, be made by Summons before a Judge, which shall specify the date and other particulars of the Judgment or Order for non-payment of which the application is made, together with the amount due, and be indorsed with the particulars required by R. 73 of H. T. 1853.

2. The service of the Summons, wherever it may be practicable, shall be personal; but if it appear to the Judge that reasonable efforts have been made to effect personal service, and either that the Summons has come to the knowledge of the debtor, or that he wilfully evades service, an Order may be made as if personal service had been effected, upon such terms as to the Judge may seem fit.

3. Proof of the means of the debtor shall, whenever practicable, be given by affidavit; but if it appear to the Judge, either before or at the hearing, that a *virâ voce* examination, either of the debtor or of any other person, or the production of any document, is necessary or expedient, an Order may be made commanding the attendance of any such person before the Judge, at a time and place to be therein mentioned, for the purpose of being examined on oath touching the matter in question, (or, and) for the production of any such document, subject to such terms and conditions as to the Judge may seem fit. The disobedience to any such Order shall be deemed a contempt of Court, and punishable accordingly.

4-7.

4. The Order of committal (which may be in the form **A.** in the Schedule, or to the like effect), shall, before delivery to the Sheriff, be indorsed with the particulars required by Rule 73 of H. T. 1853.* Concurrent Orders may be issued for execution in different counties. The Sheriff and Officer shall be entitled to the same fees in respect thereof as are now payable upon a *Ca. Sa.*

5. Upon payment of the sum or sums mentioned in the Order (including the Sheriff's fees in like manner as upon a *Ca. Sa.*), the debtor shall be entitled to a certificate in the form **B.** in the schedule, or to the like effect, signed by the Attorney in the cause of the creditor, or signed by the creditor, and attested by an Attorney on his behalf, or a Justice of the Peace.

6. Orders to arrest under the 6th Section (which may be in the form **C.** in the schedule, or to the like effect) shall be made upon affidavit and *ex parte*, but the Defendant shall be at liberty, at any time after the arrest, to apply to rescind or vary the Order, or to be discharged from custody, or for such other relief as may be just; such Orders shall, before delivery to the Sheriff, be indorsed with the particulars required by Rule 73 of H. T. 1853. Concurrent Orders may be issued for arrest in different counties. The Sheriff and officer shall be entitled to the same fees in respect thereof as are now payable upon a *Capias*.

7. The security to be given by the Defendant may be a deposit in Court of the amount mentioned in the Order, or a bond to the Plaintiff by the Defendant and two sufficient sureties (or, with leave of a Judge, more than two), or, with the Plaintiff's consent, any other form of security. The Plaintiff may, within four days after receiving particulars of the names and addresses of the proposed sureties, and the form of the proposed bond, give notice that he objects thereto, stating therein in what particulars; and, in case of his so doing, the sufficiency of the security shall be determined by the Master, who shall have power to award the costs of such reference to either party. It shall be the Plaintiff's duty to obtain an appointment for that purpose,

* Rule 73 of H. T. 1853, is as follows:—"Every writ of execution shall be indorsed with the name and place of abode or office of business of the attorney actually suing out the same, and in case such attorney shall not be attorney of the Court in which the same is sued out, then also with the name and place of abode or office of business of the attorney of such Court in whose name such writ shall be taken out; and when the attorney actually suing out any writ shall sue out the same as agent for an attorney in the country, the name and place of abode of such attorney in the country shall also be indorsed upon the said writ; and in case no attorney shall be employed to issue the writ, then it shall be indorsed with a memorandum expressing that the same has been sued out by the plaintiff or defendant in person, as the case may be, mentioning the city, town or parish, and also the name of the hamlet, street, and number of the house of such plaintiff or defendant's residence, if any such there be.

and unless he does so within four days after giving notice of objection, the security shall be deemed sufficient. **8—11.**

8. The money deposited, and the security, and all proceedings thereon, shall be subject to the order and control of the Court, or a Judge.

9. Unless otherwise ordered, the costs of and consequent on an Order to arrest, shall be costs in the cause.

10. Upon payment into Court of the amount mentioned in the Order, a receipt shall be given by the proper officer; and upon receiving the bond, or other security, a certificate to that effect shall be given, signed or attested by the Plaintiff's Attorney; and the delivery of such receipt or certificate to the Sheriff shall entitle the Defendant to be discharged out of custody.

11. The Sheriff or other officer named either in an Order of committal or an Order to arrest under the 6th section shall, within two days after the arrest, indorse on the Order the true date of such arrest.

A. E. COCKBURN.
W. BOVILL.
FITZ ROY KELLY.
W. F. CHANNELL.
COLIN BLACKBURN.
H. S. KEATING.
JNO. MELLOR.
MONTAGUE SMITH.
ROBT. LUSH.
JAMES HANNEN.

SCHEDULE.

A.

Upon hearing, &c., [*Christian and Surname of the Debtor and of the party claiming*]. I do order that the said A. B. be, for default in payment of the debt hereinafter mentioned, committed to prison for the term of (six) weeks from the date of his arrest, including the day of such date, or until he shall pay £ _____ being the amount of [an instalment due to the said C. D. upon] or a Judgment of the Court of _____ (or an Order made by _____) bearing date the _____ day of _____ together with £ _____ for costs of this Order, and Sheriff's fees for the execution thereof. And I order that the Sheriff of (Middlesex) do take the said A. B., for the purpose aforesaid, if he shall be found within his Bailiwick.

Dated, &c.

B.

I certify that A. B., now in the gaol of _____ upon an Order of the Honourable Mr. Justice _____, at the suit of C. D., for non-payment of a debt of _____ pounds, has satisfied the said debt, together with the costs mentioned in the said Order and Sheriff's fees.

Dated, &c.

E. F., of &c.

Attorney for the said C. D.,

or

C. D., of &c.

Witness to the signature of C. D.,

G. H., of &c., his Attorney

or

J. K., of &c.,

Justice of the Peace for _____

C.

Upon reading the Affidavit of &c., I do Order that the Defendant be arrested and imprisoned for months from the date of his arrest, including the day of such date, unless and until he shall sooner deposit in Court the sum of £ by way of security, or give to the Plaintiff a bond executed by him * and two sufficient sureties in the penalty of † or some other security satisfactory to the Plaintiff, that he will not go out of England without the leave of the Court [*or that any sum recovered against him in this Action shall be paid, or that he shall be rendered to prison*]. And I order that the Sheriff of (Middlesex) do within one calendar month from the date hereof, including the day of such date and not afterwards, take the Defendant for the purpose aforesaid, if he shall be found in the said Sheriff's Bailiwick.

A. E. COCKBURN.
 W. BOVILL.
 FITZ ROY KELLY.
 W. F. CHANNELL.
 COLIN BLACKBURN.
 H. S. KEATING.
 JNO. MELLOR.
 MONTAGUE SMITH.
 ROBT. LUSH.
 JAMES HANNEN.

* With leave of a Judge there may be more than two sureties.

† When the action is for a penalty or sum in the nature of a penalty, other than a penalty in respect of any contract, this must be sufficient to include the probable costs of the action, and the terms must be those in italics.

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 $\frac{1}{2} \cdot \frac{1}{2} = \frac{1}{4}$

(3) $\mathcal{A} \in \mathcal{A}_n$ is a \mathcal{P} -matrix if and only if $\mathcal{A} \in \mathcal{A}_n^{\mathcal{P}}$.

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9

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INDEX.

Simple References are to the Bankruptcy Act, 1869.

The Reference "D. A." is to the Debtor's Act, 1869, printed in this Volume.

The Reference "B. R." is to the Bankruptcy Repeal and Insolvent Court Act, 1869, printed in this Volume.

The Reference "G. R." is to the General Rules made in pursuance of the Bankruptcy Act, 1869.

Note.—The Reference "*Reg. Gen.*" is to the Regulæ Generales issued by the Common Law Judges, Michaelmas Term, 1869, and printed in this Volume.

A.

ABOLITION of officers and offices of the old London Court of Bankruptcy, provided for at the discretion of the Lord Chancellor, s. 129.

Accountant in Bankruptcy, transferred to the New London Court, subject to direction otherwise of the Lord Chancellor, s. 129.

Act of bankruptcy defined, s. 6 :

1. Conveyance or assignment of property to trustee for benefit of creditors generally.
2. Fraudulent conveyance.
3. Departing out of England.
4. Remaining out of England.
5. (In case of a trader,) departing from dwelling-house, or otherwise absenting himself.
6. Beginning to keep house.
7. Suffering oneself to be outlawed.
8. Filing a declaration of insolvency.
9. (In case of a trader,) Seizure and sale of goods under execution.
10. Non-payment after debtor summons.

Acts of bankruptcy, must have been committed within six months before the bankruptcy petition, s. 6.

Acts of bankruptcy, notice of, to creditor, render any debt contracted with him by bankrupt, after such notice, not provable in bankruptcy, s. 31.

Actions against debtor may be restrained by the court after presentation of a bankruptcy petition, s. 13 ; or after adjudication may proceed as the court shall think fit, *ib.* ; and see "*Liquidation*," No. 28.

Actions, suits, or other legal proceeding relating to the estate to be brought or defended by the trustee, s. 25, par. 3.

Adjudication upon act of bankruptcy by declaration of inability to pay, may, with the consent of the debtor, be made forthwith, G. R. 42.

- Adjudication, where the act of bankruptcy is non-payment under a debtor's summons, not to be made pending application for discharge of summons, or where the summons has been dismissed, or during a stay of the proceedings, G. R. 41.
- Adjudication, disputed, notice of, to be given to the registrar, G. R. 36.
- Adjudication: the debtor must file with the registrar an affidavit as to the statements which he disputes or denies, and send copy thereof to the creditor, *ib.*
- Adjudication: if the debtor does not appear at the hearing, the court may make adjudication without further proof, G. R. 37.
- Adjudication: the requisites disputed may be proved again at the hearing, unless the court shall otherwise direct, G. R. 38.
- Adjudication: adjournment of the hearing may be granted, if necessary, for the production of further evidence, *ib.*
- Adjudication: the petitioning creditor not attending the hearing, disqualified from presenting a second petition against the same person, without leave of the court, G. R. 39.
- Adjudication: personal attendance of the petitioner, and of witnesses to prove the debt, trading, and act of bankruptcy, may be dispensed with, G. R. 40.
- Adjudication: after establishment by verdict of the petitioning creditor's debt, under s. 9, procedure to obtain, G. R. 43.
- Adjudication, order of, to be gazetted and advertised in local paper, s. 10, G. R. 45; adjudication to date from the order, *ib.*; the *Gazette* containing the order to be conclusive evidence, *ib.*
- Adjudication, effect of, upon a debtor's property, s. 14.
- Adjudication, effect of, upon creditors, s. 12.
- Advertisements of any proceedings in the *London Gazette* or a local paper, memorandum of, to be made by the registrar, with proper references, and filed with the proceedings, on delivery by the person inserting the advertisement, of a copy of such *Gazette* or paper, G. R. 13.
- Affidavits, where and before whom they may be taken, prescribed, G. R. 157.
- Affidavits, to be used on showing cause against an order, to be filed with the registrar, two days before the hearing, G. R. 54, 55.
- Affidavits must be divided into short numbered paragraphs, in the first person, G. R. 151.
- Affidavits must state deponent's name, address, and description, and what facts are within his knowledge, *ib.* 152.
- Affidavits, if made by more than one person, the names, and dates, and places, as to each, must be inserted in the jurat, G. R. 153.
- Affidavits may be rejected for informality, G. R. 154; or by reason of erasures or of illegible writing, or of alterations or blottings occasioning illegibility, or of unauthenticated interlineations, *ib.* 155.
- Affidavits, manner of administering the oath and of filling up the jurat, in the case of a blind or illiterate deponent, prescribed, G. R. 156.
- Agent of bankrupt, holding property. See "*Treasurer.*"
- Agent, none to be employed by the trustee without the leave of the inspectors, s. 29.
- Aldermen, on becoming bankrupts or arranging debtors, disqualified to hold office, D. A., s. 21.
- Allowance to bankrupt out of estate may be made with sanction of the creditors, s. 38.

- Alum-makers, within the act as traders, Schedule 1.
- Amendments in all proceedings may be allowed by the court or registrar, as the case may be, G. R. 208.
- Annulling adjudication, may be ordered by the court, when no trustee is appointed at first meeting, or upon vacancy in trusteeship, not filled up, s. 84.
- Annulling adjudication, consequences of, s. 81 :
1. Not to invalidate sales and dispositions of property or payments duly made, or acts done, by trustee, or by the court.
 2. Property of the debtor to vest in such person as the court shall appoint, or in himself, subject to such terms and conditions, if any, as may be declared by the court.
- Annulling order to be gazetted, and the *Gazette* containing the advertisement to be conclusive evidence of the order, s. 81.
- Annulling may be made a condition of composition or scheme of settlement under s. 28, s. 28.
- Apothecaries, within the act as traders, Schedule 1.
- Appeals from local bankruptcy courts, in respect of a matter of fact or of law, to be to the chief judge, subject to an appeal from his order to the Court of Appeal in Chancery, and also with leave of such court, to the House of Lords, s. 71.
- Appeals from the chief judge to be to the Court of Appeal in Chancery, subject, with the leave of such court, to an appeal to the House of Lords, s. 71.
- Appeals to be conducted in conformity with the rules of court in force for the time being, in relation to such appeals, s. 71.
- Appeals not to be against any order of the courts under the act, except in manner directed by the act, s. 72.
- Appeals must be entered with the registrar of appeals within twenty-one days, G. R. 143.
- Appeals, notice thereof, to be given to the court appealed from, and to the persons in whose favour the order was made, G. R. 144.
- Appeals : the appellant to deposit with the registrar a sum not less than 10%, nor more than 40%, towards costs that he may be ordered to pay ; if several respondents, a deposit may be directed as to each of them, G. R. 145, 146.
- Appeals : no new evidence to be received, except by direction of the court, but the parties may use affidavits as to what took place upon making the order appealed against, G. R. 147.
- Appeals : all affidavits to be used on the appeal to be filed with the registrar of appeals, and a copy thereof sent by the appellant to the respondent four days before the hearing, G. R. 148.
- Appeals : proceedings in the court under appeal to be sent to the registrar of appeals, G. R. 149.
- Application to the court in its primary jurisdiction, regulated, G. R. 50.
- Appointments to offices created by the act to be given to persons in the receipt of compensation under the act, unless no such person is deemed by the Lord Chancellor fit for the office, s. 132 ; any subsequent appointment to be notified to the Treasury, s. 133.
- Apprentice to a bankrupt, discharged from his apprenticeship by the order of adjudication, s. 33 ; entitled to preferential payment in respect of apprenticeship fee, or to have his indenture transferred, *ib.*

- Arbitration as to disputes may be allowed by the trustee with the sanction of the inspectors, s. 27, par. 2.
- Arrangement : office for registration and arrangement of proceedings to be provided and to be presided over by a registrar, G. R. 315 (such registrar to be the registrar now acting in matters of Trust Deeds, Chief Judge's Order, 1 Jan. 1870) all petitions under ss. 125, 126, and all proceedings thereunder to be filed in such office, and all proceedings under Trust Deed matters prior to the act to be transferred thither and kept of record, G. R. 315 ; resolutions in county courts under ss. 125, 126, to be registered there, *ib.*
- Arrest or imprisonment under the Bankruptcy Act, 1869, exempted from the operation of the Debtors' Act, 1869, D. A., s. 9.
- Arrest of bankrupt, and the seizure of his books, papers, and property, may be ordered by the court :
1. If after presentation of the bankruptcy petition there is reason to believe that the debtor is about to go abroad, or to keep out of the way in order to delay or embarrass the proceedings in bankruptcy, or that he has concealed or is about to remove or conceal his property, or to remove, conceal, or destroy his books, &c.
 2. If after the petition, or after adjudication, he remove any goods in his possession to above the value of 5*l.* without leave of the trustee, or fail, without good cause shown, to attend any examination ordered by the court, s. 86.
- Arrest under s. 6 of the Debtors' Act, to be upon affidavit *ex parte*, subject to application to the court by the debtor after arrest for release, or for variance or rescinding of order, or other relief, *Reg. Gen.* 6 ; costs of and consequent upon order to be costs in the cause, unless the court shall otherwise direct, *ib.* 9.
- Arrest on mesne process limited to cases where a superior court of law at Westminster is satisfied that the plaintiff has a good cause of action to an amount exceeding 50*l.*, and that the debtor is about to quit England, to the prejudice of the plaintiff in the prosecution of the action, D. A., s. 6.
- Arrest : the date of the arrest to be endorsed upon the order of committal or arrest, within two days after the arrest, *Reg. Gen.* 11.
- Arrest : the imprisonment not to exceed six months, or until the debtor has given security to the amount in dispute, that he will not quit England without the leave of the court, *ib.* ; where the action is for a penalty, other than in respect of a contract, it need not be shown that the absence of the debtor will prejudice the plaintiff, and the security will be that any sum recovered shall be paid, or the defendant rendered to prison, *ib.*
- Articled clerk to a bankrupt, discharged from his articles by the order of adjudication, s. 33 ; entitled to preferential payment in respect of any fee on articles, or to have his articles transferred, *ib.*
- Assessed taxes, to be paid in priority to other debts, s. 32.
- Assessment of debts or liabilities, contingent or of uncertain value, to be made according to rules of court, or by the trustee, as the case may be, subject as to the trustee's estimate, to an appeal to the court, s. 31.
- Assignee of anything in action belonging to the estate, may bring or defend action or suit relating thereto in his own name, s. 111.

Association within the Companies Act, 1862, exempt from the Bankruptcy Act, 1869, s. 5 ; and see "*Partnership*."

Attachment against land, &c., of bankrupt. See "*Seizure*."

Attorneys and solicitors of the superior courts to be attorneys of the Court of Bankruptcy, and may practise there ; and in matters before the Chief Judge or registrars in the London Court of Bankruptcy, in Court or in Chambers, may appear and be heard without being required to employ counsel, s. 70. Any person not being such attorney practising as such in the Court of Bankruptcy, to be deemed guilty of a contempt of court, *ib.*

Attorneys practising in the Court of Bankruptcy to enter from time to time their name and place of abode or business in the roll of attorneys in the chief registrar's office, G. R. 216. If such place is not within five miles from the General Post Office, to appoint some place within three miles from the General Post Office where notices, &c., may be served on them, *ib.* 217 ; in default of such appointment, the fixing up such notices, &c. in the office of the chief registrar to be sufficient service, *ib.* 216.

Attorneys liable to imprisonment in default of payment of penal costs, or sum ordered to be paid under order of a court, D. A., s. 4.

Attorneys holding property of bankrupt. See "*Treasurer*."

Auctioneers, within the act as traders, Schedule 1.

Audit of accounts of trustee by inspectors, to be made quarterly, s. 55

Audit in liquidation may be made as creditors direct, s. 125, par. 9.

B.

BANKERS, holding property of bankrupt. See "*Treasurer*."

Bankers, within the act as traders, Schedule 1.

Bankrupt, his duties prescribed, s. 19 :

1. To aid in realizing, and in distributing his property among his creditors.
2. To produce a statement of his affairs to the first meeting of creditors, to attend the same, and produce in duplicate a statement of his affairs, G. R. 92.
3. To attend public examination, and any adjournment thereof.
4. To furnish such inventory of property, and such list of creditors and debtors as may be required from him by the trustee or otherwise.
5. To submit to examination as to his property or his creditors, as may in like manner be required.
6. To attend such meetings of his creditors as he may be directed to attend.
7. To wait on the trustee at such times as the trustee may reasonably direct.
8. To execute all such powers of attorney, conveyance, &c., and to do all such acts and things as may be necessary for the realization and distribution of his property.

Bankrupt, liable upon wilfully failing to perform the duties imposed on him by s. 19 of the act, or to deliver up his property for division, to punishment for contempt of court, s. 19.

- Bankrupt, his right to appeal to the court against any act of the trustee, s. 20.
- Bankrupt: if the adjudication against him be annulled, may have his property revested in him, s. 81.
- Bankrupt: liability of his pay, half-pay, pension, salary or other income, to appropriation for the benefit of the creditors, ss. 88, 89, 90.
- Bankrupt, as to arrest of, and seizure of his goods. See "*Arrest.*"
- Bankrupt, fraudulently absconding with property, a felon. See "*Felony.*"
- Bankrupt: upon arrest on warrant, to be lodged with the keeper of the specified gaol, and his books, papers, monies, goods, and chattels to be given to the trustee, G. R. 177.
- Bankrupt may have allowance out of his estate with the sanction of the creditors, and remuneration for services in the bankruptcy, s. 38.
- Bankrupt: his business may be carried on by the trustee, s. 25, par. 2.
- Bankrupt may be allowed by the trustee, under the direction of the creditors, as to terms, &c., to carry on his business, and otherwise aid in administering the estate, s. 26.
- Bankrupt may be examined as to his estate, dealings, &c., s. 96.
- Bankrupt, his death not to prevent continuance of the proceedings, s. 80 par. 9.
- Bankrupt need not be joined in any action against any co-contractor, s. 112.
- Bankrupt to be entitled to no estate or interest in any property disclaimed by the trustee under the section, s. 23.
- Bankrupt liable to imprisonment on default of payment of salary or income ordered by a Court of Bankruptcy, D. A., s. 4.
- Bankrupt may apply to the court for an order of discharge, when the bankruptcy is closed, or during the bankruptcy, with the assent of the creditors, s. 48.
- Bankrupt: when not entitled to have an order of discharge, s. 48.
- Bankrupt: from what debts he is released by the order of discharge, s. 49.
- Bankrupt, if sued in respect of any debt provable under his bankruptcy, may plead his order of discharge as sufficient evidence, s. 49.
- Bankrupt, when he has not obtained his discharge, is allowed three years, within which to pay a dividend of ten shillings, and if within that time such dividend is paid, he will be entitled to his discharge, s. 24.
- Bankrupt entitled to surplus estate, after payment of debts and of the bankruptcy expenses, s. 45.
- Bankrupt's wife may be summoned to the court for examination in relation to the bankruptcy, s. 96.
- Bankruptcy of inspector, vacates his office, s. 83, par. 16.
- Bankruptcy of trustee, vacates his office, s. 83, par. 6.
- Bankruptcy petition defined, s. 8.
- Bankruptcy petition, by whom it may be presented, s. 6.
- Bankruptcy petition, its requisite allegation or allegations, s. 6.
- Bankruptcy petition must be filed in the London Court, if residence or business be within its district, or in the proper county court, G. R. 26.
- Bankruptcy petition must be filed in the office of the chief registrar, and directed to the registrars in rotation, G. R. 218. A second petition against the same debtor, either alone or jointly with any other person, to be directed to the same registrar, *ib.* 219.
- Bankruptcy petition must be written or printed in the prescribed form

- subject to any alterations, interlineations, or erasures permitted by the registrar, G. R. 27.
- Bankruptcy petition must be accompanied by affidavit, verifying its statements, s. 80, par. 1.
- Bankruptcy petition : the statements may, if necessary, be supported by evidence, other than that of the petitioning creditor, G. R. 29, 32.
- Bankruptcy petition : where two or more petitioners not in partnership, each must depose to the truth of his own statement, by joint or by separate affidavit, G. R. 30.
- Bankruptcy petition may be presented against one or more members of a firm without including the others, s. 100.
- Bankruptcy petition may be dismissed as against one or more of several respondents, without prejudice to the effect as against the others, s. 101 ; and see G. R. 35.
- Bankruptcy petition, a subsequent, against a member of a partnership of which another member has been adjudicated bankrupt, to be filed in, or transferred to the court in which the first petition is in course of prosecution, and the property, unless the court shall otherwise direct, to vest in the trustee under the first petition, s. 102.
- Bankruptcy petition, where two or more are presented against the same debtor or debtors, members of the same partnership, the court may consolidate the proceedings, s. 80, par. 2.
- Bankruptcy petition : petitions against the debtor presented in more places than one, the London Court may transfer the proceedings to itself, or to a local court, *ib.* par. 3.
- Bankruptcy petition, by copartnership, authorised to sue and be sued in the name of its public officer or agent, may be presented by such public officer ; where by corporate body, the affidavit may be by director or other officer on its behalf, G. R. 15.
- Bankruptcy petition : the creditor not proceeding with due diligence, the court may substitute another petitioner, s. 80, par. 4.
- Bankruptcy petition : the registrar may reject for informality, G. R. 27.
- Bankruptcy petition : the registrar to investigate the statements in it before sealing copies for service, G. R. 32.
- Bankruptcy petition : after presentation, the court may, upon the application of a creditor, appoint a receiver or manager of the property or business, s. 13, G. R. 33.
- Bankruptcy petition, effect of, upon actions, suits, executions, or other legal process against the debtor, s. 13.
- Bankruptcy petition, effect of presentation of, upon the debtor's property and business, s. 13.
- Bankruptcy petition, service of, upon the debtor, must be personal, and by an officer or bailiff of the court, or by the creditor or his attorney ; but the court may grant extension of time, or permit substituted service by advertisement in the *Gazette* and a local paper, or otherwise, G. R. 59—66.
- Bankruptcy petition, as to hearing of, s. 8. If the debtor does not attend, adjudication to be made, G. R. 37.
- Bankruptcy petition : the following requisites must be established :
1. The petitioning creditor's debt.
 2. The trading, if necessary.
 3. The act of bankruptcy, s. 6.

Bankruptcy petition, the court may :

1. Adjourn the petition, conditionally or unconditionally, for further evidence, or otherwise, s. 8.
2. May dismiss the petition, *ib.*
3. May stay the proceeding until after trial, before itself or other competent court, of a debt disputed by the alleged debtor, s. 9 ; but such stay not to preclude adjudication upon the petition of another creditor, if the court shall see fit, *ib.*

Bankruptcy petition : after verdict against the petitioning creditors' debt, under section 9, procedure to obtain dismissal of petition with costs, G. R. 44.

Bankruptcy petition : where proceedings are stayed upon security given under, s. 9, unless the creditor take proceedings within twenty-one days, and duly prosecute the same, the debtor entitled to dismissal of petition with costs, G. R. 47.

Bankruptcy petitions, priorities among several petitions against same person regulated, G. R. 48.

Bankruptcy petitions : as to dismissal of petition, after stay of proceedings thereon, and subsequent adjudication upon a second petition by another creditor, s. 9.

Bar, precedence of the. See "*Motions.*"

Beginning to keep house, an act of bankruptcy, s. 6, par. 3.

Bills of exchange, or promissory notes, of which holder not known, provisions as to proof of debt in respect of, in compositions, s. 126. See "*Compositions.*"

Bleachers, within the act as traders, Schedule 1.

Body corporate, included in the term person, s. 4.

Book debts, part of the estate to be sold by the trustee, s. 25, par. 6.

Books, papers, &c., relating to the estate, the fraudulent concealment of, or preventing the production of, or mutilation, destruction, or falsification of, by bankrupt or debtor, a misdemeanor, D. A., s. 11, par. 3, 8.

Brickmakers, within the act as traders, Schedule 1.

Brokers, within the act as traders, Schedule 1.

Builders, within the act as traders, Schedule 1.

Business of the bankrupt may be carried on by the trustee, s. 25, par. 2.

Buying and selling, persons who, for themselves or as agents or factors for others, seek their living by, traders within the act, Schedule 1.

C.

CALENDERERS, within the act as traders, Schedule 1.

Carpenters, within the act as traders, Schedule 1.

Carriers, within the act as traders, Schedule 1.

Cattle salesmen, within the act as traders, Schedule 1.

Certificate of appointment of trustee to be given by the court, and to be conclusive evidence of appointment and its date, s. 18.

Certificate of payment by person imprisoned under the Debtors' Act, to include the fees payable, and to be signed by the attorney in the cause, or by the creditor, his signature being attested by an attorney on his behalf, *Reg. Gen.* 5.

Chambers : the Chief Judge may sit in chambers and there exercise the

- same jurisdiction and exercise the same powers as when sitting in court, s. 65.
- Channel Islands : warrants of an English Court of Bankruptcy enforceable in the Channel Islands, s. 76.
- Chief Judge to be in the first instance such one of the late commissioners as may be chosen by her Majesty, s. 128, and thereafter, one of the judges of her Majesty's superior courts of common law, or of equity, s. 61.
- Chief Judge to continue, in all respects, except title, as if his previous office of commissioner had not been abolished, s. 128.
- Chief Judge, subject to the provisions of the act, and the sanction of the Treasury, to determine the number of registrars, not exceeding four, and of the clerks, ushers and other subordinate officers, s. 61.
- Chief Judge incapable of being elected a member of the House of Commons, s. 69.
- Chief Judge to have all the powers, jurisdictions, and privileges of the judges of the superior courts of common law at Westminster, and the Court of Chancery, and his orders to be of the same force as judgments in common law or decrees in Chancery, s. 65.
- Chief Judge may sit in chambers and there have the same jurisdiction and exercise the same power as when sitting in court, s. 65.
- Chief Judge may determine matters in court or in chambers, on hearing attorneys or solicitors, without the intervention of counsel, s. 70.
- Chief Judge, with the approval of the Lord Chancellor, to regulate the sittings of the court, and appoint vacations therein, G. R. 209.
- Chief Judge may delegate to the registrar or other officer of his court, such of his powers as may be expediently delegated, s. 67, G. R. 2.
- Chief Judge, during vacation, or his absence from illness or other reasonable cause, the senior registrar in attendance to act as his deputy, upon notice thereof to the Lord Chancellor, G. R. 210.
- Chief Judge has authority to reinstate a registrar or other officer dismissed for acting as attorney or solicitor in any bankruptcy proceeding in the court to which he was attached, s. 69.
- Chief Judge to exercise all the powers, &c., of the old London Bankruptcy Court, in all matters of trust, &c., deeds, pending on the 31st Dec., 1869, G. R. 316.
- Chief Registrar transferred to the new London Bankruptcy Court, subject to direction otherwise of the Lord Chancellor, s. 129 ; to complete registration of trust deeds pending on the 31st Dec., 1869, G. R. 318.
- Chief Registrar, on abolition of the office, the duties to be performed by the senior registrar for the time being, G. R. 213.
- Chief Registrar, his office to be at the Court of Bankruptcy in London, and to be kept open daily, with specified exceptions, from 10 till 4, G. R. 214.
- Chief Registrar to keep a roll of attorneys and solicitors entitled to practise in the court, such roll to be open for inspection to any enrolled attorney or solicitor, G. R. 215, 216, 217.
- Chief Registrar to file and keep præcipes of writs and executions, and enter the same in a book alphabetically indicating the persons against whom they are issued, G. R. 226, 227, 228.
- City of London and its liberties, comprised, for the purposes of the act, within the London Bankruptcy district, s. 60.

- Claims may be compromised by the trustee with the sanction of the inspectors, s. 27, par. 2, 3, 4.
- Clerks, ushers and other subordinate officers, subject to the provisions of the act, their number to be regulated by the Chief Judge, with the sanction of the Treasury, s. 61; subject to the provisions of the act, to be appointed and to be removable by the Chief Judge, s. 62; their salaries when appointed by the Chief Judge, to be fixed by him, with the sanction of the Treasury, s. 63; and their duties to be such as shall be assigned to them by the Chief Judge, with the assent of the Lord Chancellor, s. 64.
- Close of the bankruptcy may be declared by order of the court upon the report of the trustee that the property has been realized, or that a composition or arrangement has been completed, s. 47; the publication of the order in the *Gazette* to be conclusive evidence, *ib.*
- Close of liquidations to be fixed by the creditors, s. 125, par. 9.
- Coach proprietors, within the act as traders, Schedule 1.
- Co-contractor with bankrupt may be sued without the joinder of the bankrupt, s. 112.
- Co-contractor with bankrupt, not released by order of discharge, s. 50.
- Coffee-house keeper, within the act as a trader, Schedule 1.
- Cognovit actionem, to be valid, must be executed in the presence of an attorney on behalf of the person giving it, and be attested by him, D. A., s. 24, 25; any defeazance or condition must appear on the document; it must be duly filed, s. 26.
- Commencement of the Bankruptcy Act, 1869, s. 3.
- Commencement of bankruptcy, to date from the act of bankruptcy, s. 11.
- Commission of bankruptcy, prescribed construction of the term with reference to adjudication under a bankruptcy petition, s. 119.
- Commissioners of the London Bankruptcy Court, except the commissioner chosen as Chief Judge, abolished, s. 128.
- Commissioners may be appointed by the Lord Chancellor to some judicial office of equal or greater salary, and upon refusal to accept the appointment, or neglect, being in a competent state of health to execute the duties, to forfeit their superannuation allowance, unless they satisfy the Lord Chancellor that the office is not suitable, s. 134.
- Commitment for contempt of court, procedure to obtain, prescribed, G. R. 178, 179.
- Commitment to be to such convenient prison as the court shall think fit, s. 77.
- Commitment under the Debtors' Act, ss. 5, 6, regulated, *Reg. Gen.* 4; concurrent orders for execution in different counties may be issued, *ib.*
- Committee of inspection, as to appointment of, s. 14, par. 3.
- Committee of inspection, to superintend the trustee's administration of the bankrupt's property, *ib.*
- Committee of inspection: where there is no such committee, the court, on the application of the trustee, may represent it for all the purposes of the act, s. 83, par. 17.
- Committee of inspection, may act, notwithstanding any vacancy in their body, reducing the number below five, s. 83, par. 14.
- Committee of inspection: the quorum may be fixed by resolution of creditors, s. 83, par. 11; if not so fixed, to be three, G. R. 129.

- Committee of inspection : any member of, may be removed by special resolution of the creditors, s. 83, par. 12.
- Committee of inspection : on vacancy in the office, the trustee to call a meeting of the creditors to fill up the vacancy, s. 83, par. 13.
- Committee of inspection : their directions may be set aside by directions of a general meeting of the creditors, s. 20 ; they are to meet every three months to audit the trustee's account, s. 41 ; and determine as to dividend, s. 55 ; their duties as to the trustee's record and estate books, G. R. 242, 243.
- Committee of inspection : no act *bonâ fide* done by any member of, to be vitiated by reason of any defect or irregularity in his appointment, s. 83, par. 15.
- Committee of inspection : if no committee, or if not the whole of the committee be appointed, such circumstance not to invalidate any act or proceeding of the trustee or of the creditors, s. 83, par. 15.
- Committee of inspection, any member of, may resign his office on written notice to the trustee, s. 83, par. 10.
- Committee of inspection, a member of, on becoming bankrupt, vacates his office, s. 83, par. 16.
- Company. See "*Partnership.*"
- "Companies Act, 1862," Partnership. Association or Company Corporate, registered under, not within the Bankruptcy Act, 1869, s. 5.
- Company Corporate within the Companies Act, 1862, exempt from the Bankruptcy Act, 1869, s. 5.
- Compensation to officers released or abolished, directed, ss. 129, 131 ; to be in no case less than two-thirds of the salary, s. 131 ; and may be by way of annuity, or otherwise, *ib.*
- Compensation, appropriation of, to creditors. See "*Pay.*"
- Competition for trusteeship, no part of the expense of competition for the office, to come out of the estate, G. R. 127.
- Composition with creditors, regulated, s. 126 ; and see "*Liquidation.*"
- Composition : its provisions enforceable by the court, on motion, on pain of contempt of the court, s. 126
- Composition, registration of resolution to be conclusive evidence of the proceedings, s. 127.
- Composition by bankrupt may be accepted by trustee, with the sanction of the creditors and of the court, with or without annulling. The approval of the court to be conclusive as to the validity of the composition, and the composition itself to be enforceable by the court, and to be binding on the creditors, s. 28 ; and see G. R. 252—314.
- Composition by bankrupt with creditors under the act may operate as a stay of the proceedings in bankruptcy, s. 80, par. 10.
- Compromise of debts, claims, or liabilities, may be made by the trustee with the sanction of the inspectors, s. 27, par. 2, 3, 4.
- Comptroller, appointment of, s. 55. To hold office during the pleasure of the Lord Chancellor, and to receive such salary as the Lord Chancellor shall direct with the sanction of the Treasury, *ib.* To have an office and officers, clerks and servants, *ib.*
- Comptroller to examine trustee's statement of affairs, and to call him to account for any misfeasance, neglect, or omission, and to charge him with any loss thence resulting, and to report to the court any failure of the trustee to make good such loss, s. 57 ; G. R. 251.

- Comptroller to give to trustee applying for his release a report upon his accounts, G. R. 248.
- Comptroller to require at any time from a trustee explanations as to the bankruptcy, and may cause him, or any other persons, to be examined before the court concerning the bankruptcy, and may direct local investigation of the trustee's books and vouchers, s. 58.
- Comptroller to keep registers of bankruptcies, and bankruptcy proceedings, open to public inspection, G. R. 237, 238, 239.
- Comptroller to prepare books of official returns, and to make annual report to the Lord Chancellor, respecting all matters within the act, s. 115.
- Computation of time under the act, s. 114.
- Consolidation of proceedings under two or more bankruptcy petitions. *See* "*Bankruptcy Petition.*"
- Contempt of court. *See* "*Commitment.*"
- Contingent debts, not debts enabling creditor to vote at first meeting, s. 16, par. 3.
- Contingent debts, before proof, to have a value set upon them, according to rules of court, or, if these do not apply, at the discretion of the trustee, s. 31; subject, as to the trustee's estimate, to an appeal to the court, *ib.*
- Contracts or dealings with bankrupt, prior to adjudication, and without notice of act of bankruptcy, protected, s. 94.
- Contracts, part of the estate, may, if unprofitable, be at any time disclaimed by the trustee, and shall thereupon be deemed determined from adjudication, s. 23; but subject to application to the court by the party interested, *ib.*; and to limitation of time for disclaimer, upon application from the party interested, s. 24.
- Contracts, distinct, by bankrupt, member of several firms: proof in respect of, against the properties respectively liable, s. 37.
- Conveyance or assignment of property for benefit of creditors generally, an act of bankruptcy, s. 6.
- Conveyance by bankrupt in good faith, protected, s. 95.
- Conveyance, assignments, surrenders, admissions, or other assurance relating solely to the estate of a bankrupt, proxy-papers, writs, orders, certificates, affidavits, bonds, or other instrument or writing relating solely to such estate, exempt from stamp duties (except in respect of fees under the act), s. 113.
- Copyhold property, part of the estate, may pass to appointee of trustee, without surrender and admittance as to trustee, s. 22.
- Corporation may prove, vote, and otherwise act in bankruptcy by an agent duly authorised under its seal, s. 80, par. 7.
- Costs may be awarded by the court in all matters before it, and so awarded be recoverable in manner prescribed, G. R. 186.
- Costs, orders for payment of, to be sealed, and signed by a registrar, and filed, *ib.* 187.
- Costs, every order may be enforced by issuing execution, *ib.* 188.
- Costs, to be subject to taxation, *ib.* 189.
- Costs of and consequent on an order of arrest under the Debtors' Act, to be, unless otherwise ordered by the court, costs in the cause, *Reg. Gen.* 9.
- Costs may be allowed against debtor to the estate, admitting himself to be such upon examination, s. 98.
- Costs under debtor summons. *See* "*Debtor's Summons.*"

- Costs, &c., bills of, taxable by the masters, specified, G. R. 223 ; subject to the revision of the court, *ib.*
- Counsel not required to be heard, as of right, in matters before the chief judge or registrar, in the London Court of Bankruptcy, in court or in chambers, s. 70.
- County district courts of bankruptcy abolished, s. 130 ; the registrar alone to be retained for the purpose of disposing of such pending business as the Lord Chancellor shall appoint, and upon that business being wound up, to retire, *ib.* Their powers, &c., as to trust, &c., deeds, transferred to the county courts, G. R. 316.
- County district courts of bankruptcy, all books, papers, documents, and money in the custody or control of these courts to be transferred, and to vest in manner to be directed by the Lord Chancellor, s. 130.
- County court judge to have, for the purposes of the act, in addition to his ordinary powers, all the powers and jurisdiction of a judge of the Court of Chancery, s. 66. May delegate to registrar or other officer of his court such of his powers as may be expedient, s. 67 ; G. R. 3.
- County court judges acting in bankruptcy, their power as to delegation of their authority, s. 67 ; G. R. 3.
- County court judges, their power to transfer proceedings, s. 80, par. 5 ; G. R. 82, 83, 84.
- County courts, sittings of, in bankruptcy matters regulated, G. R. 204, 205.
- County court jurisdiction in bankruptcy, any county court may be excluded by the Lord Chancellor from bankruptcy jurisdiction, and its district, for the purposes of such jurisdiction, transferred to another county court or courts, s. 79.
- County court registrars may, under delegation from the judge acting in bankruptcy, exercise all his powers as such, except that of commitment, G. R. 2, 3.
- Court, definition of the term, s. 4.
- Court, to mean the London Bankruptcy Court in cases where the bankrupt resides or carries on business within the London Bankruptcy district, or is not resident in England, s. 59.
- Court, in cases where the debtor resides or carries on business within the district of a county court, other than a metropolitan county court, to mean such county court, *ib.*
- Court, every court having original jurisdiction in bankruptcy to be deemed, subject to the act, the same court, and to have jurisdiction throughout England, s. 80, par. 6.
- Court to receive bankruptcy petitions, s. 6.
- Court to grant and to adjudicate upon debtors' summonses, s. 7.
- Court to try, in certain cases, questions relating to debts under debtors' summonses, s. 7.
- Court to adjudicate upon bankruptcy petitions, ss. 8, 9 ; G. R. 37.
- Court to restrain, or otherwise, proceedings in suits, &c., against a bankrupt, s. 13.
- Court to appoint, if it think fit, a receiver or manager, and to direct possession to be taken of the estate, s. 13 ; G. R. 33.
- Court to summon first meeting of creditors, s. 14 ; but see G. R. 89.
- Court to control, if it see fit, directions of creditors to trustee, s. 14, par. 4.

- Court to direct, when necessary, the conduct of the registrar as trustee, s. 17.
- Court to give certificate of appointment of trustee, whether registrar or creditor trustee, upon being satisfied as to security, s. 18 ; G. R. 105.
- Court to adjudicate on special applications by trustees or creditors, s. 20.
- Court to appoint day for public examination of bankrupt, and adjourn the same if requisite, s. 19 ; but see G. R. 138.
- Court to adjudicate upon matters in dispute between the trustee and the bankrupt, or any creditor or other person aggrieved, s. 20.
- Court to summon, if it shall think fit, general meetings of creditors, and direct the registrar to preside, s. 20.
- Court to adjudicate upon applications by persons interested in property disclaimed under s. 23 by the trustee, s. 23.
- Court to adjudicate upon resolution of creditors under s. 28, and if annulling be a condition, to annul the bankruptcy, s. 28.
- Court to adjudicate upon appeal as to contingent debts, and, where necessary, to assess their value, with or without the intervention of a jury, and either before the court itself or before some other court, s. 31.
- Court, upon report of trustee, may make an order closing the bankruptcy, s. 47.
- Court to adjudicate as to order of discharge, s. 48.
- Court to adjudicate on application by trustee for release, s. 51.
- Court may revoke order of release of trustee on proof that it was obtained by fraud, s. 53.
- Court may order examination of persons in Scotland or Ireland, s. 75.
- Court may give directions as to first meetings, s. 84.
- Court may annul adjudication if no trustee appointed at first meeting, or upon vacancy in the trusteeship not filled up, s. 84.
- Court may direct post letters addressed to bankrupt to be sent to the trustee or other person, s. 85.
- Court may remove a trustee upon cause shown, s. 83, par. 4.
- Court to certify as to appointment of a new trustee by creditors, s. 83, par. 4.
- Court to adjudicate upon any report by the comptroller charging a trustee with misconduct, s. 57.
- Court to examine trustee or other person as to the bankruptcy, on the requisition of the comptroller, s. 58.
- Court to adjudicate as to consolidation of proceedings under two or more bankruptcy petitions, s. 80, par. 2.
- Court to adjudicate as to substitution of creditor for petitioning creditor, in case of laches, *ib.*, par. 4.
- Court, on the application of the trustee, may summon the bankrupt, or his wife, or any other person, to be examined concerning the bankruptcy, and to produce documents relating thereto, s. 96 ; on refusal of person summoned to attend, or to produce documents, the court may, by warrant, cause him to be apprehended, and brought up for examination, *ib.*
- Court may exercise the same power as to the amendment of writs and præcipes as the superior courts at Westminster, G. R. 236.
- Court, in default of a committee of inspectors, to represent it for all the purposes of the act, s. 83, par. 17.
- Court to adjudicate as to amount and manner of payment of debt admitted, due on examination by debtor to the estate, s. 98 ; and as to costs, if any, *ib.*

- Court to grant search warrants for property concealed elsewhere than in bankrupt's house, s. 99.
- Court to adjudicate as to property, &c., in cases where a petition is presented against a member of a partnership, of which one member is already a bankrupt, s. 102.
- Court to adjudicate as to objections to formal defects or irregularities in proceedings, s. 82.
- Court to adjudicate upon application by trustee to institute actions or suits in the name of himself and of bankrupt's partner, s. 105.
- Court to adjudicate as to stay of proceedings in case of liquidation by arrangement or composition, s. 80, par. 10.
- Court may direct continuance of proceedings after death of bankrupt, s. 80, par. 9.
- Court to adjudicate upon application to annul, and upon the consequent disposal of the debtor's property, s. 81.
- Court to adjudicate on motions to enforce provisions of composition with creditors under the act, s. 126.
- Court may, on cause shown, convert liquidations under the act into bankruptcy, s. 125, par. 12; G. R. 266, 267.
- Court may, on cause shown, convert composition into bankruptcy, *ib.*
- Court may order the prosecution of a bankrupt on the report of the trustee, on the representation of a creditor, or of an inspector, if it shall see reasonable probability of a conviction, D. A., s. 16; and may order the trustee to prosecute, *ib.*
- Court, its power to arrest or imprison a person, not affected by the Debtors' Act, D. A., s. 9.
- Court to certify to the Speaker when a member of the House of Commons has been bankrupt for twelve months, and has not annulled his adjudication, or paid his debts, s. 122.
- Court. Every court having jurisdiction in bankruptcy may review, rescind, or vary any order made by it under the act, s. 71.
- Court of Bankruptcy, London, to have the jurisdiction of the late Insolvent Debtors' Court, B. R. Act, 1869, ss. 4, 16.
- Court of Bankruptcy: rules of court may be made in relation to the winding up of the business of that court, *ib.* s. 5; and see "*Winding up.*"
- Court of Appeal in Chancery to be, for the purposes of the act, a court of record, with all the jurisdiction, powers, and authorities of the Court of Bankruptcy, to be exercisable either originally or on appeal, and with all the powers and authorities of the Court of Chancery relative to the trial of questions of fact, by jury, issue, or otherwise, s. 71.
- Court of Insolvency, in Portugal Street, provision as to the clerks and officers of, B. R. Act, s. 10.; their salaries to continue, *ib.*, 12; their superannuation under any former acts not affected by the present act, *ib.*, s. 13.
- Courts of bankruptcy in England available for enforcement of orders made by courts of bankruptcy in Ireland and Scotland, s. 73.
- Courts of bankruptcy in England, Ireland, and Scotland, and British courts elsewhere, having jurisdiction in bankruptcy or insolvency, and the officers of all such courts, to act in aid of, and to be auxiliary to each other in all matters of bankruptcy, s. 74.
- Covenants, onerous, as to disclaimer of by trustee, see s. 23, and "*Trustee.*"

- Cowkeepers, within the act as traders, Schedule 1.
- Creditors may not vote at first meeting until they have proved a debt, s. 16, par. 2.
- Creditors may not vote in respect of unliquidated or contingent debt, or debt of which the value is not ascertained, s. 16, par. 3.
- Creditors, if secured, can only vote in respect of balance, unless they surrender the security, s. 16, par. 4.
- Creditors holding specific security, may prove for their whole debt on giving up the security, s. 40.
- Creditors entitled to set-off in the case of mutual credit, &c., between them and the bankrupt, if they had not at the time of such credit, &c., notice of an act of bankruptcy, s. 39.
- Creditors making false claim, on proof, &c., untrue in any material particulars, wilfully and with intent to defraud, guilty of misdemeanor, D. A., s. 14.
- Creditors who have proved prior to any general meeting of creditors after the first meeting, may attend and vote at such meeting, s. 21.
- Creditors may, in writing, appoint a proxy, fully to represent them for all purposes of the act, s. 80, par. 8.
- Creditors, their rights as to property, upon an order of adjudication, s. 14.
- Creditors, their power at first meeting, *ib.* par. 1 :
1. To appoint a trustee, unless they refer the appointment to the committee of inspection.
 2. To declare what security shall be given by the trustee whom they appoint, *ib.* par. 2.
 3. To appoint, not exceeding five of their body, a committee of inspection, *ib.* par. 3.
 4. To direct, if they see fit, the manner in which, subject to contrary direction of the court, the trustee shall administer the estate, *ib.* par. 4.
- Creditors may appoint more persons than one to the office of trustee, but all such persons shall be included in the term "trustee" and shall be joint tenants of the property, s. 83, par. 1.
- Creditors may appoint several persons to act as trustee in succession, in the event of one or more persons named declining, s. 83, par. 1.
- Creditors, their proceeding to fill up a vacancy in the office, *ib.* par. 2.
- Creditors, on bankruptcy of trustee, to appoint a trustee in his place, s. 83, par. 5.
- Creditors may remove trustee by special resolution and appoint another person in his place, s. 83, par. 4.
- Creditors shall direct in what manner and on what terms the trustee may allow the bankrupt to manage the business, &c., s. 26.
- Creditors, their right to appeal to the court against any act of the trustee, s. 20.
- Creditors may consider at a meeting, the application of the trustee for his release, s. 51.
- Creditors may oppose the application before the court, s. 51.
- Creditors may authorize allowance to bankrupt, or remuneration for services rendered in the bankruptcy, s. 38.
- Creditors may, by special resolution, at meeting of which notice has been given, authorize acceptance of composition offered by the bankrupt; or settlement of his affairs, with or without annulling, s. 28.

- Creditors may, at any general meeting, by resolution, override the directions of the inspectors, s. 20.
- Creditors may, by special resolution, remove an inspector, s. 83, par. 12.
- Creditors may pass resolution that the bankrupt has not given up his property, s. 48.
- Creditor may authorize the bankrupt to apply for an order of discharge, before the bankruptcy is closed, s. 48.
- Creditors, their position with regard to the bankrupt's property after the expiration of three years from the close of the bankruptcy, s. 54.
- Creditors, after adjudication, not to have any remedy against the property or person of the bankrupt, except in manner provided by the act, s. 12. See "*Secured Creditors*."
- Creditors of a bankrupt, subsequent to close of bankruptcy, entitled to priority over the creditors under the bankruptcy, claiming after the three years limited by the act, s. 54.
- Creditors may resolve by special resolution to transfer the proceedings to the London Court, or to some local court, as the case may be, s. 80, par. 5.
- Creditors under 10*l.*, in determining majorities upon resolutions in liquidation, to be reckoned by value and not by number, s. 125, par. 14.; and so as to composition with creditors, s. 126.
- Creditors, in composition, the same description of, to vote at meetings as in bankruptcy, s. 126.
- Creditors in composition entitled to examine proceedings, *ib.*
- Creditors of small debtors, imprisoned under the act, retain their rights against the debtor's property, D. A., s. 5.
- Crown debts, not within the act, s. 49.
- Customary property, part of the estate, may pass to appointee of trustee, without surrender and admittance as to trustee, s. 22.

D.

- DEATH of bankrupt not to prevent the proceedings in the bankruptcy continuing, s. 80, par. 9.
- Death of bankrupt, or a witness, does not prevent depositions from being received in evidence, s. 108.
- Debtor arranging under the Bankruptcy Act, 1869, remains liable for balance of debt incurred, increased, or forborne by means of fraud, in cases where the creditor has not assented to the arrangement or composition, D. A., s. 15.
- Debtor arranging under the act, and fraudulently absconding with property, a felony. See "*Felony*."
- Debtor to the estate, admitting debt upon examination, to pay to the trustee, the whole or part of the debt, with or without costs, as the court shall direct, s. 98; effectually discharged by the trustee's receipt on payment, s. 25, par. 7; his right to appeal to the court against any act of the trustee, s. 20.
- Debtors disobeying order of a court of bankruptcy to pay, liable to imprisonment, D. A., s. 4.
- Debtors, at the commencement of the act, in prison, in any case in which they would not be liable to imprisonment under the act, to be dis-

- charged at the commencement of the act without payment of fees, but such discharge not to affect the rights or remedies of the creditors against their property, D. A., s. 7.
- Debtors, under order or judgment of a court for sums not exceeding 50*l.* with costs, may be imprisoned on non-payment, for any time not exceeding six weeks, D. A., s. 5; such imprisonment not to extinguish the debt, or lessen the creditors' rights against property, *ib.*; may be discharged forthwith within the six weeks, on certificate of payment, *ib.*
- Debtors' Act, 1869 :
1. To be cited for all purposes as the Debtors' Act, 1869, s. 1.
 2. Not to extend to Scotland or Ireland, s. 2.
 3. To come into operation on the 1st January, 1870, s. 3.
- Debtor's summons, the non-payment of debt after, when an act of bankruptcy, ss. 6, 7.
- Debtor's summons to issue from the London Court, if the residence or business be within its district, if elsewhere from the proper county court, G. R. 17.
- Debtor's summons to issue, in the Scheduled form, on affidavit of debt by the creditor, G. R. 18; the original summons to be filed, G. R. 20.
- Debtor's summons to be endorsed with the name and address of the creditor's attorney, or, if there be no attorney, with a notification that it is issued by the creditor himself, G. R. 21.
- Debtor's summons to be endorsed with notices to debtor of consequences of neglect to obey the summons, and with an intimation that, if he dispute the debt, he must file an affidavit thereof with the registrar, G. R. 22.
- Debtor's summons: alleged debtor may apply to the court to dismiss the summons, in manner and time prescribed, and the court may either dismiss the summons with or without costs, or stay the proceedings under the summons, until after trial of the question of debt, with or without security by the alleged debtor, s. 7; G. R. 23.
- Debtor's summons: the trial of any such question to be before the London Court of Bankruptcy, or before a county court, or before some other competent court, as the case may be, *ib.*
- Debtor's summons: where the summons is stayed, upon security given, unless the creditor take proceedings within twenty-one days, and duly prosecute the same, the debtor will be entitled to have the summons dismissed with costs, G. R. 25.
- Debtor's summons: the summons must be served personally, within twenty-one days from its date, but the court may grant extension of time, or permit substituted service, by advertisement in the *Gazette* and a local journal, G. R. 59, 61, 62.
- Debtor's summons: on adjudication by the court against the debt, the debtor to be discharged from the summons, with costs, but the costs not to be enforced for seven days, or, if an appeal be entered, not until the appeal has been decided, G. R. 24.
- Debtor's summons: as to adjudication under, see "*Adjudication.*"
- Debts provable in bankruptcy, definition of the term, s. 4.
- Debts provable, all debts and liabilities (except as excepted in relation to unliquidated damages, and debts contracted after notice of act of bankruptcy,) to which the bankrupt is subject at the date of the

- order of adjudication, or to which he may become subject during the bankruptcy, by reason of any anterior obligation, s. 31.
- Debts of uncertain value, as to assessment of, s. 31.
- Debts of unascertained value, not debts enabling creditor to vote at first meeting, s. 16, par. 3.
- Debts provable, discharged by order of discharge, s. 49.
- Debts, as to expunging, G. R. 73.
- Debts provable under a bankruptcy, not enforceable until after the expiration of three years from the close of the bankruptcy, s. 54, par. 1; if not paid within that period, they, or any balances unpaid, become enforceable against the property of the bankrupt, subject to the claims of creditors subsequent to the bankruptcy, *ib.* par. 2.
- Debts, other than preferential debts, to be paid *pari passu*, s. 32.
- Debts excepted from the operation of the act. See "Penalty;" sum recoverable summarily; sum payable by trustee; sum payable by an attorney; debtors; small debts.
- Debts not provable:
1. Demands in the nature of unliquidated damages, arising otherwise than by reason of a contract or promise, s. 31.
 2. Debts contracted after notice of act of bankruptcy to creditor, s. 31.
- Debts contracted prior to the Bankruptcy Act, 1861, by non-trader, not within the act, s. 118.
- Debts, proof of. See "*Proof of Debts.*"
- Declaration of inability to pay debts to be in the prescribed form, and to be filed in the London Court, if the residence or business is within the district of that court, or, if elsewhere, in the proper county court, G. R. 16.
- Deeds, books, and documents of the bankrupt to be taken possession of by the trustee, s. 22.
- Deeds and instruments relating to the bankruptcy to be executed by the trustee, s. 25, par. 5.
- Defect or irregularity in the appointment of a trustee or inspector, not to vitiate any act *bonâ fide* done by him, s. 83, par. 15.
- Definition of terms, s. 4; G. R. 1.
- Delegation of powers by courts prescribed, s. 67, G. R. 2, 3, 4.
- Departing from dwelling house, an act of bankruptcy, when committed by a trader, s. 6.
- Departing out of England an act of bankruptcy, s. 6.
- Discharge of debtor in liquidation, to be granted by the creditors, s. 125, par 9.
- Discharge of debtor imprisoned under the Debtors' Act. See "*Security.*"
- Distinct contracts, proof in respect of, against a bankrupt member of two or more firms, s. 37.
- Disclaimer of onerous property by trustee, ss. 23, 24; and see "*Trustee.*"
- Disposition of the bankrupt's property in good faith, protected, s. 95.
- Disputed adjudication. See "*Adjudication.*"
- Dividends: dividends must be declared and distributed by the trustee, when the inspectors shall so determine: if not declared within six months, the trustee must afford a satisfactory explanation to a meeting of creditors to be called by him for the purpose, s. 41.
- Dividends: provision must be made in calculating a distribution of

- dividends for debts appearing due to persons at such distance that they have not had time to prove, and for debts the subject of pending claims, s. 42.
- Dividends : the trustee and inspectors may declare a final dividend when they shall think it inexpedient to protract the bankruptcy, s. 44.
- Dividends : where withheld, no action or suit to be against the trustee, but the court may order payment with interest and costs against the trustee, s. 46.
- Dividends : notice of to be gazetted by the trustee, and sent to each creditor, with an intimation of the amount due to him, G. R. 131, 132.
- Dividends may be sent to the creditor by registered post letter, or received by him at the office of the trustee, G. R. 133.
- Dividends, procedure to obtain under order of the court, if withheld by the trustee, G. R. 135.
- Dividends payable to secured creditors, procedure to determine, prescribed, s. 40, G. R. 136.
- Dividends unclaimed, a list of to be given to the creditors by the trustee, prior to his application for release, s. 51.
- Dividends, joint and separate. *See "Joint and Separate Dividends."*
- Documents, production of, on summons under Debtors' Act, may be directed, *Reg. Gen.* 3.
- Dwelling-house, the departing from by a trader, an act of bankruptcy, s. 6.
- Dyers, within the act as traders, Schedule 1.

E.

- ECCLIASTICAL benefice, the bankrupt's right of nomination to, does not pass to creditors, s. 15, par. 4.
- Emolument, appropriation of to creditors. *See "Pay."*
- Evidence may be taken either *viva voce* on oath, or by interrogatories, or upon affidavit, or by commission abroad, s. 97, G. R. 49. Evidence *viva voce* may be taken, if the court or registrar at any public sitting or private meeting think fit, by a short-hand writer, or other person, upon specified terms, G. R. 207.
- Evidence of proceedings in bankruptcy :
1. Petition or copy of petition in bankruptcy ;
 2. Order or copy of order by bankruptcy court ;
 3. Certificate or copy of certificate by bankruptcy court ;
 4. Deed or copy of deed of arrangement in bankruptcy ;
 5. Instrument, affidavit, or document used in proceedings under the act or copy thereof respectively, under seal of the court or signature of a bankruptcy judge ;
- to be received in evidence in all legal proceedings whatever, s. 107.
- Evidence of proceedings at meetings of creditors to be the minutes caused to be entered in a book by the registrar or other person presiding, and signed by him, s. 106.
- Evidence : the order of discharge is sufficient evidence of the bankruptcy and of all proceedings under it, s. 49.
- Evidence of close of bankruptcy, publication of the order closing it in the *Gazette*, s. 47.

Evidence. See "*Witness.*"

Examination of bankrupt or of his wife, or of any person supposed in possession of any of the estate, or to be indebted to the bankrupt, or to be capable of giving information respecting the bankrupt, his trade, dealings, or property, may be directed by the court on the application of the trustee, s. 96. See "*Court,*" and "*Witness.*"

Examination: the examination, or a copy duly sealed, to be receivable in evidence, notwithstanding the death of the examinant, s. 108.

Examination ordered by the court, bankrupt on failing to attend may be arrested by warrant, s. 86.

Examination: reasonable expenses to be tendered to witness summoned for examination, s. 96

Examination of persons in Scotland or Ireland, may be ordered by a court of bankruptcy in England, s. 75. And see "*Evidence.*"

Executions against a debtor may be restrained by the court after the presentation of a bankruptcy petition, s. 13; or after adjudication, may proceed as the court shall think fit, *ib.*

Expense of registrar and his clerk, in attending meetings elsewhere than in court, to be paid out of the estate, or if this is insufficient, to be deemed part of the expenses of the court, s. 110; G. R. 88.

Expunging debts, regulated, G. R. 73.

Extension of time for service of debtor's summons or bankruptcy petition, need not be supported by affidavit, unless the court shall otherwise require, G. R. 64.

F.

FALSE CLAIM, or proof, declaration, or statement of account, untrue in any material particular, the making of, wilfully and with intent to defraud, a misdemeanor, D. A., s. 14.

False debts, the fraudulent omission by bankrupt or debtor, to disclose proof in respect of, a misdemeanor, D. A., s. 11, par. 7.

False entries, with fraudulent intent, the making of in any book or document, a misdemeanor, D. A., s. 11, par. 10.

False pretences or fraud, the obtaining credit by, a misdemeanor, D. A., s. 13, par. 1.

False pretence of carrying on business in the ordinary way, fraudulently alleged by a trader, as a means of obtaining credit, a misdemeanor, D. A., s. 11, par. 14.

False representation, or fraud, the obtaining credit, by means of, a misdemeanor, D. A., s. 11, par. 13.

False representation for purpose of obtaining consent of creditors to any agreement within the act, a misdemeanor, D. A., s. 11, par. 16.

Farmer, not within the act as a trader. Schedule 1.

Fees, scale of, for business done by any court or officer, under the act, to be prescribed from time to time by the Lord Chancellor with the sanction of the Treasury, s. 68; G. R. p. 144. May be imposed by stamp, or otherwise, at the discretion of the Treasury, *ib.* Collection, accounting for, appropriation of, and any remuneration in respect of, to be directed by the Treasury, *ib.*

Fees, in respect of committal under the Debtors' Act, ss. 5, 6, to be the same as now payable under *Ca. Sa., Reg. Gen.* 5.

- Felony, committed by any bankrupt or arranging debtor, who, pending the bankruptcy or arrangement, or within four months prior, fraudulently absconds or seeks to abscond from England with property, divisible among his creditors to the amount of 20*l.* or upwards : such felony punishable by imprisonment for not exceeding two years, with or without hard labour, D. A., s. 12.
- Fiat in bankruptcy, prescribed construction of the term with reference to adjudication under a bankruptcy petition, s. 119.
- Fictitious losses, the fraudulently attempting to account for property by means of, a misdemeanor, D. A., s. 11, par. 12.
- Filing a declaration of insolvency, an act of bankruptcy, s. 6.
- Fines and recoveries, the provisions relating to, of 74 Wm. 4, c. 3 & 4, extended to bankruptcy, s. 25, par. 4.
- First meetings to be summoned by the court as soon as may be after adjudication, s. 14; G. R. 89. May be held elsewhere than in court, G. R. 87. Order to attend must be served on bankrupt, G. R. 90.
- First meetings must be presided over by registrar, or in his absence by an elected chairman, s. 16, par. 1.
- First meetings : no creditor to vote at, who has not proved his debt, *ib.* par. 1. What debts may not be proved, *ib.* par. 3, 4. Votes may be given either personally or by proxy, *ib.* par. 6.
- First meetings : ordinary resolutions to be decided by majority in value. Special resolutions by a majority in number and three-fourths in value, *ib.* par. 7, 8.
- First meetings may be adjourned by registrar, subject to the directions of the court, s. 84.
- Foreign attachment, the custom of, not affected by the act, D. A., s. 29.
- Formal defects or irregularities, not to invalidate proceedings, unless deemed by the court to be attended with substantial injustice, s. 82.
- Fraudulent concealment or removal of property, since or within two months before the date of an unsatisfied judgment or order for payment of money, a misdemeanor, D. A., s. 13, par. 3.
- Fraudulent conveyance, an act of bankruptcy, s. 6.
- Fraudulent gift, delivery or transfer of goods, a misdemeanor, D. A., s. 13, par. 2.
- Fraudulent preference : any transfer of, or charge upon property, payment made, obligation incurred, or any judicial proceeding taken or suffered by insolvent person, in favour of any creditor preferentially over the other creditors, fraudulent and void as against the trustee, saving the right of a purchaser, payee, or incumbrancer in good faith and for valuable consideration, s. 92.
- Fuller, within the act as a trader, Schedule 1.
- Funds of the late Insolvent Debtors' Court, application of, B. R., s. 18. Dividends payable in respect of proceedings in that court, and not claimed within a specified period, to vest in the Treasury subject to a claim thereupon on the part of the creditor, *ib.* s. 19.

G.

- GAOLER refusing to receive person committed under the act to pay a penalty not exceeding 100*l.*, s. 77.
- General meetings of creditors, other than the first meeting, and other than

- meetings directed by the court under s. 20, may be summoned by the trustee or one of the inspectors, and may be presided over by an elected chairman, s. 21. All creditors who have previously proved may attend and vote at these meetings, *ib.*
- General meetings, ordered by the court, to be summoned by the trustee upon receipt of a copy of the order from the registrar, by transmission, seven days before the meeting, of a copy of the order to each creditor, s. 21 ; G. R. 95.
- General meetings shall be deemed to have been duly held, unless the contrary be proved, upon production of the minutes required by the act to be kept of the proceedings thereat, s. 106.
- General meeting. See "*First Meeting.*"
- General orders acted upon in bankruptcy procedure, prior to the act, to be observed until rules of court have been made under the act, and so far as such rules do not extend, s. 78 ; and see G. R. 319.
- General orders. See "*Rules of Court.*"
- Goodwill, part of the estate, to be sold by the trustee, s. 25, par. 6.
- Grazier, not within the act as a trader, Schedule 1.

H.

- HALF-PAY, appropriation of to creditors. See "*Pay.*"
- Hotel-keeper, within the act as a trader, Schedule 1.
- House of Commons, member of, within the act, s. 120.
- House of Commons, member of, if adjudged bankrupt, incapable of sitting or voting in the House for twelve months, unless, meanwhile, the bankruptcy is annulled, or the creditors fully paid and satisfied, s. 121. Debts disputed by the bankrupt to be considered as so paid or satisfied, on the bankrupt entering into bond to pay amount found due upon action, *ib.*
- House of Commons, member of, if within twelve months the bankruptcy not annulled and the debts not paid or satisfied, the court to certify the fact to the Speaker and thereupon the seat of the member to become vacant, s. 122. Provisions as to the issue of new writ by the Speaker thereupon, ss. 123, 124.

I.

- IMPRISONMENT for debt abolished, with certain specified exceptions, D. A., s. 4.
- Imprisonment for debt under the act, limited to one year, D. A., s. 4, but not to affect in other respects the effect of any judgment or order of a court for payment of money, *ib.*
- Imprisonment for debt, not to extinguish the debt, or deprive the creditor of his rights against the debtor's property, D. A., s. 5.
- Imprisonment of small debtors under the act, ordered by a superior court, may be in the prison to which the debtor would have been committed on a writ of *capias*, and the order for such imprisonment to be issued, obeyed, and executed, in like manner as such writ, D. A., s. 5 ; applications for, must be by summons before a judge, *Reg. Gen.* 1.
- Income tax to be paid in priority to other debts, s. 32.

- Income of bankrupt, other than official, an appropriation of, or of a portion of, for the benefit of the creditors, may be directed by the court, s. 90.
- Incumbrancers in good faith, reservation of their rights in relation to trustee, ss. 92, 94.
- Indictment under the act need not set forth any debt or other proceeding in bankruptcy, D. A., s. 18.
- Inn-keeper, within the act as a trader, Schedule 1.
- Insolvency, the filing a declaration of, an act of bankruptcy, s. 6.
- Insolvent debtors, discharged under the Insolvent Debtors' Acts, saving of their rights, B. R. s. 7.
- Inspection of proceedings by creditors, s. 22.
- Inspection of proceedings under liquidation. See "*Liquidation*," and G. O. 204.
- Inspectors, regulations in respect to, set forth, s. 83.
- Inspectors, their power to sanction mortgage of property, &c., under s. 27. See "*Trustee*."
- Inspectors, their quorum, if not otherwise settled by the creditors, to be three, G. R. 129.
- Inspectors, resolutions of, to be decided by the majority in number present, G. R. 130.
- Inspectors. See "*Committee of Inspection*."
- Interest on debts provable, allowable in like manner and degree as allowable by a jury in an action, s. 36; G. R. 77, 137.
- Interrogatories, written, may be used in the examination of witnesses, s. 97.
- Ireland exempted from the operation of the act, except where otherwise provided, s. 2; D. A., s. 2.
- Ireland, courts of bankruptcy in, available for enforcement of orders of English courts of bankruptcy, s. 73, and *è converso*, *ib.*, and of warrants, s. 76.
- Isle of Man: warrants of an English court of bankruptcy may be enforced in the Isle of Man, s. 76.

J.

- JOINT creditor of bankrupt, member of a firm, and of the other partners of the firm, or of any of them, may prove his debt for the purpose of voting at meetings of creditors, but shall not receive dividend out of separate property of the bankrupt until the separate creditors have been satisfied, s. 103.
- Joint and separate dividends, unless the court shall in any case otherwise direct, to be declared together, and the incidental expenses to be apportioned between them by the trustee, s. 104.
- Joint and separate estates under an adjudication to have distinct accounts kept of them respectively; overplus of separate estate to be carried to the joint estate, overplus of joint estate to separate estate; cost of the accounts to come out of the joint and separate estates respectively, G. R. 76.
- Judge: the signature of any judge acting under the act to be judicially noticed, s. 109.

- Judges of bankruptcy courts prohibited from acting directly or indirectly, by themselves or partners, in any matter of bankruptcy pending in their several courts, under pain of dismissal, s. 69.
- Judges of local bankruptcy court may, on certificate, the creditors not objecting, transfer proceedings to the London Court, or to another local court, s. 80, par. 5 ; G. R. 82, 83, 84.
- Judge's order, by consent, to enter up judgment, or to issue execution, invalid, if not duly filed, with the affidavits as to consent, and as to residence and occupation of defendant, D. A., ss. 27, 28.
- Judicial notice to be taken of rules of court made under the act, s. 78.
- Jurisdiction of several bankruptcy courts defined, s. 59.
- Jurisdiction of county court judges, in bankruptcy, defined, s. 66.
- Jurisdiction of any one court, having original jurisdiction in bankruptcy, to extend, subject to the act, to every other such court, s. 80, par. 6. See "*County Court.*"
- Jurisdiction, under the small debt sections of the act, given to the superior courts, may be exercised in chambers or otherwise, in the prescribed manner, D. A., s. 5.
- Jurisdiction conferred by an order of the court seeking auxiliary aid upon the court from which aid is sought, a. 74.
- Jury : as to the power of the Court of Appeal to try questions of fact by jury, a. 71.
- Jury, as to trial of questions of fact by, when directed by the London Court of Bankruptcy, or a county court, s. 72.
- Justices of the peace, on becoming bankrupts or arranging debtors, disqualified to act as justices until newly assigned, D. A., s. 22.

L.

- LABOURER, common, not within the act as a trader, Schedule 1.
- Landlord, his right to distrain defined, ss. 33, 34.
- Land tax to be paid in priority to other debts, s. 32.
- Last examination, day for, to be named by the court, s. 19 ; may be adjourned by the court, *ib.*
- Lease, part of the estate, burdened with onerous covenants, may (subject to the limitation of time prescribed in s. 24) be disclaimed by the trustee, and shall thereupon be deemed as surrendered from order of adjudication, s. 23 ; subject to application to court by person interested, *ib.*
- Legal process against a debtor may be restrained by the court after presentation of a bankruptcy petition, s. 13 ; or after adjudication, may proceed as the court shall think fit, *ib.*
- Letting for hire goods or commodities, a trading within the act, Schedule 1.
- Liability, the term defined, s. 31 :
1. Compensation for work or labour done.
 2. Obligation to pay money, &c., on breach of any covenant, contract, agreement, or undertaking.
 3. Any express or implied engagement, agreement, or undertaking, to pay money or money's worth.
- Lime-burner, within the act as a trader, Schedule 1.
- Liquidation by arrangement, regulations as to, s. 125.

- Liquidation to be deemed to commence from the appointment of a trustee, s. 125, par. 4.
- Liquidation : the debtor to summon a meeting of his creditors, who may resolve to wind up his affairs by arrangement and not by bankruptcy, and may appoint a trustee, with or without a committee of inspection, s. 125, par. 1.
- Liquidation : provisions of the act relating to meetings of creditors, &c., in bankruptcy, to apply with certain modifications to liquidation ; every meeting to be presided over by an elected chairman, s. 125, par. 2.
- Liquidation : trustee may be appointed in liquidation as in bankruptcy, s. 125, par. 1 ; and have the same powers, and perform the same duties as a trustee in bankruptcy, s. 125, par. 4, 7.
- Liquidation of trustee : appointment equivalent to the presentation of a bankruptcy petition, *ib.*, par. 7.
- Liquidation : the resolution, statement of affairs, name of trustee, and names of inspectors, if any, to be presented to the registrar, who, if satisfied as to the regularity of the proceedings, shall register them, and when registered they shall be open for inspection, s. 125, par. 4.
- Liquidation : property to vest in trustee, and to be divisible, and to have the like protection, as to fraudulent conveyance, &c., as property in bankruptcy, s. 125, par. 5, 7.
- Liquidation : creditors may prescribe the bank into which the trustee is to pay money received, and the sum he may retain in his own hands, *ib.* par. 8.
- Liquidation : certificate by registrar of discharge of debtor to operate with the same effect as an order of discharge in bankruptcy, *ib.* par. 10.
- Liquidation : the court may on cause shown, convert liquidation into bankruptcy, s. 125, par. 12.
- Liquidation : release of trustees to be granted by creditors, s. 125, par. 9.
- Liquidation : trustee to report the discharge of the debtor, *ib.* par. 10.
- Liquidation, by arrangement, may operate as a stay of the proceedings in bankruptcy, s. 80, par. 10.
- Liquidation : rules of court may be made for regulating proceedings in liquidation, *ib.* par. 11.
- Liquidation : arrangement by, or composition with creditors, proceedings regulated under :—
1. Proceedings to be instituted by petition (in form No. 106) addressed to the court which would have jurisdiction in bankruptcy, G. R. 252, 253. Petition to contain statement of debts, G. R. 262, and to bear 1*l.* stamp. Scale of fees, table A.
 2. Affidavit to be filed therewith, in the form given by Schedule of Forms, No. 107, *ib.*
 3. First general meeting to be held at place mentioned in affidavit, unless otherwise directed by the court, within a month, subject to direction otherwise by the court, G. R. 254.
 4. Meeting to be summoned by notice in form 108, G. R. 255.
 5. Debtor to deliver to registrar the several notices required, signed, addressed, and stamped for post, with request, (form 110,) bearing a stamp duty of 3*d.* for each notice, and list of creditors. Registrar to have notices checked with list, sealed, and posted, fourteen days before the meeting, to creditors, the person posting them to make affidavit of such posting, G. R. 256, 258.

Liquidation—*continued*.

6. Debtor to deliver to registrar (form 111) notice to be gazetted at least seven days before the meeting, G. R. 257.
7. The court may by order in form 112, change place appointed for meeting, on application by debtor or a creditor, made in time to enable such change to be notified to the creditors and debtor, eight days, at least, before the meeting. Order to be gazetted. Expense of order and of new notices to be borne as the court shall direct, and if not paid accordingly, notices not to be sent, and the meeting to be held as originally summoned, G. R. 259.
8. After presentation of the petition, the court may restrain, or regulate, further proceedings in any suit, &c., against the debtor, as to any debt proveable, and may appoint receiver or manager of the estate, subject to control of the court, and may direct immediate possession thereof, G. R. 260, 261.
9. If no receiver or manager appointed by the court, the majority of the creditors may, prior to special resolution, appoint (form 113) such receiver or manager, and if one has been appointed by the court, he may be superseded by the subsequent nominee of the creditors. The nomination of creditors to be summarily confirmed by the court, if debtor refuse to give to the receiver or manager possession or control of the estate, G. R. 262. Signature of nomination paper regulated, *ib*.
10. Appointment of receiver or manager may be annulled by the court, by consent of the party nominating him, or on application by creditors, or of its own motion, G. R. 263.
11. Receiver or manager to have custody of the books and effects, the books to be open to inspection by debtor or creditors or their agents, G. R. 264, 265.
12. The debtor may be adjudicated bankrupt by the court, if it shall see fit, but proceedings under the adjudication to be stayed, to enable creditors to pass, within reasonable time, a special or extraordinary resolution in the matter; if no such resolution be passed, the bankruptcy to proceed, G. R. 266, 267.
13. Chairman, at first general meeting, to be elected by majority of persons present, claiming to be or to represent creditors: at any subsequent meeting, by a majority in value of creditors who have proved their debts, G. R. 268.
14. Creditors may prove debts and appoint proxies as in bankruptcy, G. R. 269, 270.
15. Debts and proxies to be handed to the chairman, and objections thereto to be marked thereon, and to be dealt with by the registrar, when the resolution is presented to him for registration, G. R. 271.
16. Secured creditor, who has not realized security, to prove and vote only in respect of balance, after deducting amount of value which he sets upon the security; in cases of liquidation, the trustee entitled to surplus over assessed value, or to redeem the security on payment of such assessed value. The creditor not entitled to increase his proof, if the value below his assessment, G. R. 272.
17. Creditor at meeting may withdraw proof, without prejudice to his subsequently proving it, G. R. 273.

Liquidation—*continued*.

18. Debtor to produce to meeting, statement of debts and assets, with names and addresses of creditors, those under 10*l*. being in a separate list, G. R. 274.
19. Creditors may determine whether the affairs of the debtor shall be liquidated by arrangement and not in Bankruptcy, or by composition, or may reject either mode. If the registration of the resolution and the debtor's statement of affairs, be not intrusted to an appointee of the creditors, the debtor himself to register; any resolution not reduced into writing and signed by the statutory majority, not to be recognised by the court, G. R. 275.
20. Chairman to deliver forthwith to such appointee, or to the debtor, as the case may be, all proofs and proxies received at the meeting, and the statement of affairs, and in default may be summoned before the court, G. R. 276.
21. In liquidation, if no trustee appointed, a subsequent meeting to be held for the purpose not later than a week thereafter, of which meeting notice need not be given to the creditors, G. R. 277; the creditors may determine at the meeting what security, if any, shall be given by the trustee, and what remuneration, if any, he shall receive, or they may leave his remuneration to the committee of inspection, or a subsequent general meeting, *ib*. 278.
22. In composition, the creditors to specify (form 116) the amount of the composition and the manner of payment, and may name a trustee for its receipt and distribution, G. R. 279; or may accept securities for composition, *ib*. 280; the resolution may provide that the terms be embodied in a deed with such covenants for payment, protection of debtor, and release, and otherwise, as may be deemed expedient, *ib*. 281.
23. In composition, the resolution at first general meeting to be submitted to a second general meeting, within not exceeding fourteen days, of which notice (form 117) shall be given, in manner prescribed, G. R. 282; and at such second meeting the creditors may either accept the composition or convert the matter into liquidation, *ib*. 283.
24. Resolutions of creditors, together with proofs, proxies, and statement of affairs, to be filed in court within three days, and to be verified as being the whole of the proceedings at the meeting, G. R. 284.
25. Where petitions are by partcers, separate meetings of joint and separate creditors must be held, the joint creditors' meeting to take place first: the proceedings and powers of the different classes of creditors regulated, G. R. 285, 286.
26. Debts to include debts for which debtor is responsible jointly with other persons: the majority in such cases to be the collective majority of both classes of creditors: the resolution may provide for composition to separate creditors without prejudice to rights of the joint creditors, G. R. 287.
27. The creditors may transfer the proceedings to another court, G. R. 288.
28. In liquidation, creditors, though without notice of meeting restrained

Liquidation—*continued*.

- from proceedings against the debtor unless the court shall be of opinion that their rights have been prejudicially affected by the resolution, or that the dividends would be larger in bankruptcy, G. R. 289.
29. In liquidation superseded by bankruptcy, trustee to pay over and account to bankruptcy trustee, estate in his hands, and if dividends have been paid to some of the creditors under liquidation the court to make order appropriating estate so as to make equal distribution among all the creditors, G. R. 290.
 30. In liquidation proper costs of proceedings prior to resolution, to be paid out of the estate in like manner as costs of a petitioning creditor in bankruptcy, G. R. 291.
 31. If liquidation or composition converted into bankruptcy, cost of proceedings therein to be paid by bankruptcy trustee out of estate unless the court shall otherwise direct, G. R. 292.
 32. Majorities at meetings, in absence of any enactment to the contrary, to be the majority in value present, G. R. 293.
 33. Resolutions at a meeting valid, though the meeting thereafter adjourned for other purposes, G. R. 294.
 34. Resolutions tendered for registration to the registrar, to be examined by him, and any creditor, who has given notice of such intention, may be heard thereon; the registrar, if satisfied as to the requisites, to register the resolution, and seal it, and in cases of liquidation, deliver to trustee a certificate, in form 121. If the registrar refuse to register, he must certify the grounds of his refusal by memorandum, and file the same. The registration, or the refusal, subject to appeal to the court, G. R. 295.
 35. Resolution and statement when registered, open to inspection by creditor included in statement, or his agent, G. R. 296.
 36. Receiver or manager to vacate, on appointment of trustee in liquidation, or when extraordinary resolution passed, in composition, unless the resolution shall otherwise provide, G. R. 297. To pay over estate received to trustee, or to debtor or his nominee as the case may be, *ib.* 298.
 37. The court to have the same power as to appointment, remuneration, and removal of receiver or manager, the settlement of his accounts, and the appropriation of monies, &c. in his hands, as is exercised by the Court of Chancery, G. R. 299.
 38. Informalities in proceedings not to vitiate them, unless the registrar shall deem them of such moment, that the matter should be referred to the judge, G. R. 300.
 39. In liquidation, the passing of a special resolution, conclusive evidence that the debtor has fulfilled the requisite conditions, but the debtor shall still give information on all points to the trustee, or, in default, be summoned before the court, G. R. 301.
 40. In liquidation, creditors may, at the same time with resolution, resolve (form 122) whether the debtor's discharge shall be granted forthwith, or at a future time, and with or without conditions. In default of such resolution for discharge, a meeting to be summoned thereafter for the purpose, at the discretion of the trustee, or inspectors, or creditors as the case may be, G. R. 302, 303.

Liquidation—continued.

41. General meetings summoned by trustee, to be upon seven days' notice by post to each creditor who has proved, G. R. 304.
42. General meetings may be summoned by a creditor representing, including himself, one-fourth in value of the creditors who have proved, G. R. 305.
43. Mistakes inadvertently made by a debtor in his statement of debts, may be corrected with the assent of his creditors, at a meeting to be summoned by him for the purpose, G. R. 306.
44. Trustee may be removed by creditors and another appointed in his place. If trustee be dead, or there be none acting, the creditors may appoint one, G. R. 307, the appointment to be registered with the registrar, whose certificate is to be conclusive evidence, *ib.* 308.
45. Creditors in foreign parts, without timely notice of meeting, may show cause to the court against the resolution, though registered, but the court will not interfere unless it be shown that the creditors, if present, and dissenting, could have negatived the resolution, or that its terms are unjust or inequitable towards them, G. R. 309.
46. Proof of debt, conclusive evidence of notice of meeting having been given to the creditor, G. R. 310.
47. Debts must be proved prior to payment of dividend thereon, G. R. 311.
48. In liquidation, seven days, at least, notice of dividend to be gazetted (form 125); dividend to be reserved upon all debts or claims notified upon such notice, or inserted in the debtor's statement, except, in the latter case, where any such debt or claim has been rejected, G. R. 312.
49. Trustee registering claim or proof, to give notice (form 126) to claimant: if, within fourteen days of delivery of notice, the claimant, being resident in Europe, or within such time, in other cases, as the court shall order, does not appeal against the decision, the rejection to be conclusive, G. R. 313.
50. Dividends, except as before mentioned, only payable to creditors who have proved or claimed prior to dividend, or whose names appear on the debtor's list: later creditors only admissible to further dividend, G. R. 314.

Livery stable keepers, within the act as traders. Schedule 1.

Local bankruptcy court, defined to be the county court, within which the debtor resides or carries on business, s. 59.

Local rates, to be paid in priority to other debts, s. 32.

London Bankruptcy Court, to consist of a Chief Judge, and, subject to the provisions of the act, of such number of registrars, not exceeding four, and of such clerks, ushers, and other subordinate officers as the Chief Judge, with the sanction of the Treasury, may determine, s. 61.

London bankruptcy court to continue a court of law and of equity, and a principal court of record, s. 65.

London bankruptcy district to comprise the city of London and the liberties thereof, and the several districts of the Metropolitan County Courts, as defined in Schedule 2 to the act, s. 60.

- Lord Chancellor may nominate commissioners and other persons abolished under the act, to other suitable offices of not less value than their compensation allowance, s. 134; commissioner or other person refusing to accept the office, or not performing its duties, to forfeit his pension, *ib.*
- Lord Chancellor, with the advice of the Chief Judge, may from time to time make, revoke, and alter, rules of court for the effectual execution of the act, s. 78.
- Lord Chancellor may from time to time exclude any county court from jurisdiction in bankruptcy, or attach its district or districts, for the purposes of such jurisdiction, to any other county court or courts, s. 79; and see Order in pursuance hereof, *ante*, p. 309.

M.

- MAJORITIES at meetings of creditors, determination of, prescribed, s. 16, par. 7, 8.
- Majorities on special resolutions in liquidation, in calculating, creditors under 10*l.* to be included by value and not by number, s. 125, par. 14.
- Manager of debtor's business, as to appointment of, before adjudication, s. 13; G. R. 33.
- Market Gardeners, within the act as traders, Schedule 1.
- Masters of the Court, their duties as to taxation of bills specified, G. R. 223; the office to be at the court in Basinghall-street, and to be open daily from ten to four, except when the office of the Chief Registrar is closed, *ib.* 224; the business to be transacted by them in person, *ib.* 225.
- Mayors of towns, on becoming bankrupts or arranging debtors, disqualified to hold office, D. A., s. 21.
- Meetings of creditors: first meetings may be held elsewhere than at the court, on the application of a creditor, supported by affidavit showing benefit to the estate by such arrangement, and upon deposit of 3*l.* for expenses of registrar and clerk attending the meeting, G. R. 87, 88.
- Meetings of creditors to be summoned by registrar, after adjudication made, and advertised in the *Gazette* and in a local paper, and to be notified to the bankrupt, G. R. 89, 90.
- Meetings of creditors not attended by a quorum, incompetent to transact other business than the election of a chairman, the proving of debts, and adjournment, G. R. 93. If at adjourned meeting, there is again no quorum, the registrar to report such fact to the court under s. 84, G. R. 94.
- Meetings of creditors, all proceedings at, valid, unless the court shall otherwise direct, though some of the creditors have not received notice thereof, provided such notice has been duly posted, G. R. 97, 98.
- Meetings of creditors under s. 96, procedure to obtain, prescribed, G. R. 171; as to attendance of witnesses at, G. R. 166-170.
- Meetings of creditors summoned by trustee, to be summoned by notice to each creditor, of the meeting and its purpose, G. R. 95.
- Meetings of creditors: a copy of every resolution passed at any meeting, to be sent by the trustee to the registrar, G. R. 75.
- Meeting of creditors to accept composition by bankrupt, or settlement out of bankruptcy, authorized, s. 28.

Merchandise, persons using the trade of, by way of bargaining, exchange, bartering, or otherwise, within the act as traders. Schedule 1.

Messengers and other officers of the old London Court, transferred to the new London Court, subject to directions otherwise by the Lord Chancellor, s. 129.

Messengers to be attached, until released or their office abolished, to such of the registrars and to perform such duties, as the Chief Judge shall direct. G. R. 221.

Metropolitan County Courts district, as defined in Schedule 2 to the act, comprised, for the purposes of the act, within the London Bankruptcy District, ss. 59, 60.

Metropolitan County Courts district defined :

The Bloomsbury County Court of Middlesex.

The Bow County Court of Middlesex.

The Brompton County Court of Middlesex.

The Clerkenwell County Court of Middlesex.

The Lambeth County Court of Surrey.

The Marylebone County Court of Middlesex.

The Shoreditch County Court of Middlesex.

The Southwark County Court of Surrey.

The Westminster County Court of Middlesex.

The Whitechapel County Court of Middlesex. Schedule 2.

Millers, within the act as traders. Schedule 1.

Minutes of proceedings at meetings of creditors, signed by the registrar or other person presiding, to be evidence of such meetings, s. 105.

Misdemeanor by bankrupt, punishable with two years imprisonment, and with or without hard labour, defined, D. A., s. 11 :

1. Non-discovery, with fraudulent intent, of property, and its disposition.
2. Non-delivery up, with fraudulent intent, of property.
3. Non-delivery up, with fraudulent intent, of books, documents, papers and writings, relating to his property and affairs.
4. Concealment, with fraudulent intent, of property, to the value of 10% or upwards, or of debts due to him.
5. Removal, with fraudulent intent, of property, to the value of 10% or upwards.
6. Omission, with fraudulent intent, in any statement relating to his affairs.
7. Withholding information of any false debt which he knows or believes to have been proved against his estate.
8. Preventing, with fraudulent intent, the production of any books, documents, papers, or writings, affecting or relating to his property or affairs.
9. The concealment, destruction, mutilation, or falsification, by himself, or by others with his privity, and with fraudulent intent, of any book or document affecting or relating to his property or affairs.
10. The making, by himself, or by others with his privity, and with fraudulent intent, of any false entry, in any book or document relating to his property or affairs.
11. Parting with, altering, or making omission in, with fraudulent intent, documents relating to property or affairs.

Misdemeanor—continued.

12. Attempting to account for property by fictitious losses or expenses.
13. Having obtained property on credit, by false representation or other fraud, and not having paid for such property.
14. A trader, having, with fraudulent intent, obtained credit on the false pretence of carrying on business and dealing in the ordinary way of his trade, and not having paid for the same.
15. A trader, with fraudulent intent, pawning, pledging, or disposing of goods, otherwise than in the ordinary way of trade, and not having paid for the same.
16. False representation, or other fraud for the purpose of obtaining consent of creditors to agreement with reference to his affairs, or his bankruptcy, or liquidation.

Misdemeanors within the Bankruptcy Act punishable by one year's imprisonment, with or without hard labour, defined, D. A., s. 13 :

1. The obtaining credit by false pretence or fraud.
2. The fraudulent gift, delivery, or transfer of, a charge upon property.
3. The fraudulent concealment or removal of property since, or within two months before, the date of any unsatisfied judgment or order for payment of money.
4. The making of any false claims, or any proof, declaration, or statement of accounts untrue in any material particular, wilfully and with intent to defraud, D. A., s. 14.

Misdemeanors within the act to be deemed within and subject to the provisions of the Vexatious Indictment Act, in relation to the discretion of justices as to evidence of guilty intent, D. A., s. 16.

Moneys received by trustees to be forthwith paid into such bank as the creditors appoint, or failing such appointment, into the Bank of England, s. 30 ; and see "*Trustee.*"

Mortgage property, as to taking accounts and sale of, G. R. 79, 80, 81.

Mortgage or pledge of estate, to enable payment of debts, may be made by the trustee with the sanction of the inspectors, s. 27, par. 1.

Motions to be made and petitions heard, in the order in which they are set down, at the sitting of the court ; but motions by the bar to have precedence over those by attorneys, G. R. 57.

Motions, notice to parties affected by order sought, to be given, G. R. 50.

Motions, short note of, to be given to the registrar, G. R. 56.

N.

NOTICES, summonses, orders, and rules in matters depending in the court, and not requiring personal service, service of copies of, upon attorneys and solicitors, to or at the place of abode or business entered by them in the roll of attorneys in the chief registrar's office, sufficient service, G. R. 216. If no such entry made, the fixing up such notice, &c., in the chief registrar's office, sufficient, *ib.*

Notice of act of bankruptcy, effect of upon creditors as to mutual credits, &c., s. 39.

Notice to parties affected by a motion, to be given them four clear days before the hearing, G. R. 50 ; as to service of notice of motion, &c., *ib.* 51 ; as to notice by substituted service, *ib.* 53.

Non-payment after debtor summons, an act of bankruptcy, s. 6.

O.

- OATH on the proof of debts, may be administered by the trustee, s. 25.
- Office copies, by whom to be made, G. R. 222.
- Official assignees, transferred to the new London Court, subject to direction otherwise by the Lord Chancellor, s. 129.
- Official assignees and their clerks to be attached, until released or their office abolished, to such of the registrars, and to perform such duties, as the Chief Judge shall direct, G. R. 221.
- Officers, registrars, or others, abolished under the act, may be appointed by the Lord Chancellor to any office under the act, of equal or greater salary than their superannuation allowance at the time; and upon refusal to accept the office, or neglect, being in competent health, to perform its duties, to forfeit their superannuation, unless they shall satisfy the Lord Chancellor that the office is not suitable to their position, s. 134.
- Officers of bankruptcy courts, prohibited from acting, directly or indirectly, by themselves or partners in any matter of bankruptcy pending in the courts, under pain of dismissal, subject to reinstatement by the chief judge, s. 69.
- Officers, clerks, and servants of comptroller, tenure and salaries of, s. 55.
- Official solicitors. See "*Solicitors*."
- Omission, fraudulent, in statement of affairs, by bankrupt or debtor, a misdemeanor, D. A., s. 11, par. 6.
- Onerous property, disclaimer of by trustees, see ss. 23, 24.
- "Order or disposition," goods and chattels of other persons in the possession, order, or disposition, of a bankrupt trader, and of which he is reputed owner, pass to the creditors, s. 15, par. 5.
- Order of the chief judge to be equivalent to judgment in common law or decree in chancery, s. 65.
- Order of county court judges, in bankruptcy, enforceable as decrees of the Court of Chancery, in manner prescribed, s. 66.
- Order of an English court of bankruptcy enforceable in Scottish or Irish courts of bankruptcy, s. 73.
- Order of discharge may be applied for by the bankrupt, s. 48 :
1. Upon the close of the bankruptcy.
 2. At any time during the bankruptcy, with the assent of the creditors.
 3. Application for, must be in open court, G. R. 5.
- Order of discharge, procedure of bankrupt to obtain, prescribed, G. R. 138, 142; not to be granted until after public examination, G. R. 140.
- Order of discharge, to be dated of the day on which made, and to take effect from the day of its date, and to be gazetted, G. R. 139.
- Order of discharge not to be delivered out until after expiration of time limited for appeal, or until the decision of the court upon an appeal, G. R. 141.
- Order of discharge may be suspended, or wholly withheld :
1. If the court is satisfied that the bankrupt has not given up his property.
 2. If a prosecution has been commenced against the bankrupt under the "*Debtor's Act, 1869*," s. 48.

Order of discharge cannot be granted, unless :

1. Either a dividend of ten shillings in the pound has been paid, or might have been paid, but for the negligence or fraud of the trustee.
2. Or unless the creditors have by resolution declared the failure to pay such dividend or the bankruptcy itself, to have been the result of circumstances, for which the bankrupt cannot be held responsible, and that they desire him to receive his discharge, s. 48.

Order of discharge releases the bankrupt from all his debts, except :

1. Debts or liabilities incurred, or forborne by means of fraud or breach of trust.
2. Debts due to the crown, or incurred by any offence against the Revenue Laws, or as bail for another person who has committed such offence ; unless in either case the Treasury shall consent to the discharge, s. 49.

Order of discharge : the order is conclusive evidence of the bankruptcy, and of the validity of all proceedings under it, and of the release of the bankrupt from his debts, s. 49.

Order of discharge : after close of bankruptcy, and payment of ten shillings, procedure to obtain, prescribed, G. R. 172, 173.

Order of discharge : to be granted by the court, upon proof that the requisite amount has been paid, G. R. 175.

Order of discharge, does not release partner of bankrupt, or person jointly bound with him, or a co-contractor, s. 50.

Order to show cause, to be served on the party four clear days prior, G. R. 51.

Orders of the court, as to service of, G. R. 51.

Outstanding property, a list of, on close of bankruptcy, to be delivered by the trustee, s. 52, and to be got in and applied for in manner prescribed, *ib.*

P.

PACKERS, within the act as traders. Schedule 1.

Parochial rates, to be paid in priority to other debts, s. 32.

Parliament : a person having privilege of parliament, within the act, s. 120.

Parting with, altering, or making omission in any document relating to the estate or affairs, with fraudulent intent, a misdemeanor, D. A., s. 11, par. 11.

Partner of bankrupt, his position in relation to actions and suits by trustee, s. 105.

Partner, his release of debt or demand due to himself and bankrupt, and the subject of any action, void, s. 105 ; upon disclaiming any benefit from any action or suit by trustee, indemnified from costs, *ib.*

Partner not released by order of discharge, s. 50.

Partners, one or more of several, may be petitioned against, without including the others in the petition, s. 100. Petition may be dismissed as against one or more partners, without prejudicing it as against the others, s. 101.

Partnership, association, or company, member of one which cannot be adjudged bankrupt under the act, not a trader within the act, Schedule 1.

- Partnerships within the Companies Act, exempt from the Act, 1869, s. 5.
- Partnership accounts by partners, bankrupts, directed, G. R. 91.
- Pay, half-pay, salary, emoluments, or pension, of military or civil servants of the crown, in such proportion as the court, with the sanction of the department to which they may respectively belong or have belonged, may direct, available for the payment of their debts, s. 89.
- Payees, in good faith, reservation of their rights, in relation to trustee, ss. 92, 94.
- Payment of debts from bankrupt without order of discharge, after expiration of three years, mode of enforcing, prescribed, G. R. 183, 184, 185.
- Payment of money, all orders for, to be sealed, signed by registrar, and filed, G. R. 187.
- Payments to bankrupt in good faith and for value received, before adjudication, and without notice of act of bankruptcy, protected, s. 94, par. 1, and ss. 80, 95, par. 1; payments or delivery made in like manner of money or goods, belonging to bankrupt, by depositing of such money or goods, *ib.*; so, any contract or dealing made with the bankrupt by any person before adjudication, and without notice of an act of bankruptcy, *ib.*
- Payments due at stated periods, other than that of the order of adjudication, provable in proportionate part up to the adjudication, s. 35.
- Pawning or pledging goods, or disposing of goods otherwise than in the ordinary way of trade, with fraudulent intent, a misdemeanor, D. A., s. 11, par. 15.
- Penalty, or sum in the nature of penalty, other than in respect of contract, excepted from the operation of the act, D. A., s. 4.
- Pending business, in the old London court and in the country district courts, directions to be given by the Lord Chancellor for winding up, s. 129.
- Pension, appropriation of, to creditors. *See "Pay."*
- Person. This term to include a body corporate, s. 4.
- Person jointly bound with bankrupt, not released by order of discharge, s. 50.
- Personal attendance of petitioner or witnesses, may be dispensed with, G. R. 40.
- Petitions. *See "Motions."*
- Petitioning creditor must be identified to the satisfaction of the registrar, G. R. 28; to file, &c., petitions at his own cost, up to choice, G. R. 31.
- Petitioning creditor's debt, its nature prescribed, s. 6.
- Petitioning creditor's debt, single or aggregate, must be not less than 50*l.*, s. 6.
- Possession of debtor's property or business may be ordered by the court to be taken after presentation of a bankruptcy petition, ss. 13, 17.
- Post letters addressed to the bankrupt may be directed by the court to be sent to the trustee, s. 85.
- Powers of the courts exercising jurisdiction in bankruptcy defined, s. 72.
- Powers of the courts. In the exercise of these powers, the courts not to be restrained by the order of any other court, nor any appeal to lie against their orders, except in manner directed by the act, s. 72.
- Powers of attorney relating to the bankruptcy to be executed by the trustee, s. 25, par. 5.

- Practice in bankruptcy, prior to the act, to be observed until rules of court have been made under the act, and so far as such rules do not extend, s. 78; and see G. R. 319.
- Preferential debts specified, ss. 32, 33, 34, 35 :
1. Parochial rates.
 2. Local rates.
 3. Assessed taxes.
 4. Land tax.
 5. Property tax.
 6. Income tax.
 7. Wages.
 8. Salary.
 9. Claim of artied clerk or apprentice.
 10. Rent.
- "Prescribed." Definition of the term, s. 4, D. A., s. 10.
- Principles of procedure in bankruptcy matters, acted upon prior to the act, to be observed until rules of court have been made under the act, and so far as such rules do not extend, s. 78; and see G. R. 319.
- Priorities of payment in relation to preferential debts, s. 32.
- Priorities of payment, all questions as to, to be decided by the court, s. 72.
- Privilege of Parliament does not exempt a member from liability to bankruptcy, s. 120; and see "*Parliament*;" "*House of Commons, Member of*."
- Proceedings in bankruptcy regulated, s. 80. See "*Bankruptcy Petition*," "*Transfer of Proceedings*," "*Jurisdiction of Court*," "*Proof*," "*Provy*," "*Death of Bankrupt*," "*Stay of Bankruptcy*."
- Proceedings in bankruptcy. Minutes of all proceedings at meetings of creditors to be made and kept by the trustee, and to be open to inspection by creditors, s. 22.
- Proceedings in bankruptcy, stay of. See "*Stay of Proceedings*."
- Proceedings in bankruptcy not to be invalidated by any formal defect or irregularity, unattended with substantial injustice, s. 82.
- Proceedings in matters under the act to be in, or be framed in, accordance with the forms set forth in the schedule, G. R. 7; to be, as the rule, printed or written on paper or parchment of a prescribed size, but informality not to vitiate, *ib.* 8; to be sealed, *ib.* 10.
- Proceedings to remain of record in the court, and not to be removed except for use by the court, or by direction of a judge or registrar, but to be open to inspection by trustee or creditor who has proved, *ib.* 9.
- Proceedings, office copies of, to be provided by the officer in prescribed manner, G. R. 12, 222.
- Proceedings: notices and other proceedings not requiring personal or special service, may be sent by prepaid post-letter, G. R. 14.
- Process, as to service of, G. R. 58.
- Proof of debt may be by affidavit, transmitted to registrar or trustee, G. R. 67; may be either by the creditor or by agent or clerk, *ib.* 68.
- Proof of debt before trustee prescribed, s. 25, par. 1, s. 31.
- Proof of debt to be examined by trustee, who may reject or admit it, in whole or in part, at once or upon further evidence, giving notice to creditor of rejection, G. R. 72; and subject to appeal to the court, *ib.* 74.

- Proof of debt : if debt improperly admitted, the trustee may apply to the court to expunge it, G. R. 73.
- Proof of debt : list of proofs admitted, or rejected, or pending, to be sent monthly by the trustee to the registrar, G. R. 75.
- Proof of debt : as to proof of debt by separate creditor, G. R. 76.
- Proof of debt may be :
1. At any duly summoned meeting of creditors.
 2. By transmission, in prepaid post letters, to the registrar acting as trustee, or the trustee himself, as the case may be, of an affidavit of the debt, and may be made by creditor or his clerk or agent, G. R. 67.
- Proof of debt by corporation may be by agent duly authorised under its seal, s. 80, par. 7 ; G. R. 69.
- Proof of debt may be disallowed by registrar acting as trustee, at first meeting, G. R. 70.
- Proof of debt allowed or disallowed by the trustee to be filed with the registrar, G. R. 71.
- Proof of debt in respect of distinct contracts, s. 37.
- Proof of debt in respect of rates and taxes, s. 32.
- Proof of debt in respect of rent, ss. 34, 35.
- Property tax to be paid in priority to other debts, s. 32.
- "Property," definition of the term, s. 4.
- Property vests in the registrar until a trustee is appointed by the creditors, and then in such trustee, s. 17.
- Property to pass from trustee to trustee, including the registrar, and to vest in trustee without conveyance, assignment, or transfer, s. 83, par. 6.
- Property upon adjudication, becomes divisible amongst creditors, s. 14 ; except as to particulars specified in s. 15, par. 1, 2, 4.
- Property, disposition of, by conveyance, transfer, charge upon, delivery or payment of, made by bankrupt before adjudication, in good faith, and for valuable consideration, to person not having notice of act of bankruptcy, valid, notwithstanding previous act of bankruptcy, s. 95.
- Property in hands of other persons as agents, and not by law retainable by them to be delivered over to the trustee, s. 93.
- Property concealed elsewhere than in bankrupt's house, may be seized under search warrant, s. 99.
- Property of an unsaleable nature may (subject to the limitation of time in particular cases, prescribed by s. 24) be disclaimed by the trustee, s. 23 ; subject to application to the court as to possession by the person interested, *ib.* ; and to proof by such person for amount of injury sustained by disclaimer, *ib.*
- Property after annulling the bankruptcy may vest in such person as the court shall appoint, or revert to bankrupt, as the court directs, s. 81.
- Property, the withholding of, by bankrupt, a contempt of court, s. 19.
- Property, the fraudulent non-discovery, non-delivery up of, concealment or removal of, by bankrupt or debtor, a misdemeanour, D. A., s. 11, par. 1, 2, 4, 5.
- Proportionate payments, as to proof in respect of, s. 35.
- Prosecution of bankrupt or debtor, for any offence under the act, may be directed by the court upon the report of the trustee, or upon the representation of a creditor or an inspector, D. A., s. 16.

- Prosecution, expenses of, to be allowed, paid, and borne in like manner with those of prosecutions for felony, D. A., s. 17.
- Prosecution for offences against the act, and also against any other act, or against the common law, must be under the one act or the other, so that the person shall not be punished twice for the same offence, D. A., s. 23.
- Protection of certain transactions with bankrupt, specified ss. 94, 95, and see "*Payments to Bankrupt.*"
- Provisional assignees of the late insolvent debtors' court, continuance of his office, and provision as to any vacancy, B. R., s. 8, to be also receiver of the insolvent court, *ib.*, s. 9; his salary to continue, *ib.* s. 11.
- Proxy may be appointed by a creditor fully to represent him for all purposes of the act, s. 80, par. 8; s. 16, the appointment to be in writing, under the hand of the creditor, or agent of the corporation, as the case may be, G. R. 85; must be filed with the trustee at the meeting at which first used, *ib.* 86.
- Public examination, the registrar to appoint a day for, not less than 40 days from first meeting, unless the registrar shall otherwise direct, G. R. 96.
- Public examination must be held in open court, G. R. 5.
- Punishments under the act not cumulative, D. A., s. 23.
- Purchasers in good faith, reservation of their rights in relation to trustee, ss. 92, 94.

Q.

- QUARTER sessions to have jurisdiction in respect of offences under the act, D. A., s. 20.
- Questions of fact, as to trial of, under direction of the court of appeal, by jury, issue, or otherwise, s. 71; as to trial of, before the other courts acting in bankruptcy, s. 72; and see G. R. 190—203.
- Quorum of creditors at any meeting, prescribed, G. R. 93.
- Quorum of committee of inspection to be fixed by resolution of creditors, s. 83, par. 11.
- Quorum of inspectors, unless otherwise settled by the creditors, to be three, G. R. 129.

R.

- RECEIPT by trustee for money paid to him an effectual discharge for the person paying it, s. 25, par. 7.
- Receiver may be appointed by the court after presentation of bankruptcy petition, s. 13; G. R. 33.
- Receiver, or manager, on appointment of trustee, to pass his accounts with him, G. R. 104.
- "Registrar," definition of the term, s. 4; G. R. 1.
- Registrars of the old London Court transferred to the new London Court, subject to direction otherwise by the Lord Chancellor, s. 129; their duties there prescribed and limited, *ib.*

- Registrars appointed by the Chief Judge, to have such salaries as the Chief Judge, with the sanction of the Treasury, may determine, s. 63, and to perform such duties as the Chief Judge shall assign to them with the assent of the Lord Chancellor, s. 64.
- Registrars, officers, or persons appointed under the act, other than registrars, &c., in office at the time of the passing of the act, to receive superannuation on retirement, under the Superannuation Act, 1859, s. 136.
- Registrars, subject to the provisions of this act, limited to not exceeding four in number, and to be appointed and be renewable by the Chief Judge, s. 62.
- Registrars, clerks, and other persons, in office at the passing of the act, and who may be continued in their offices, to receive, on retirement, the superannuation to which they would have been entitled if the act had not been passed, s. 136.
- Registrars of the London Court may act for each other, G. R. 211.
- Registrar acting in Quality Court, to be the registrar of appeals in Chancery, and before the Chief Judge, G. R. 212; and on trials by jury, G. R. 200.
- Registrar incapable of being elected a member of the House of Commons, s. 69; may not, by himself or partner, directly or indirectly, or in any stage of the proceedings, act as attorney or solicitor in any bankruptcy in the court of which he is registrar, on pain of dismissal, subject to reinstatement by the Chief Judge.
- Registrars, their signature to be judicially noticed, s. 109.
- Registrars, provision for their expenses when presiding at meetings elsewhere than in court, s. 110; G. R. 88.
- Registrars, their jurisdiction within each district defined, s. 83, par. 9.
- Registrar may act by delegation for Chief Judge, or for County Court Judge, as the case may be, s. 67; G. R. 2, 3.
- Registrar may, under delegation from the Chief Judge, or a local Judge, exercise all the powers vested in such judges, except that of commitment, G. R. 2, 3.
- Registrar, in the London Court of Bankruptcy, may determine matters in court or in chambers, on hearing attorneys or solicitors, without the intervention of counsel, s. 70.
- Registrars, their duties on presentation of a bankruptcy petition. See "*Bankruptcy Petition*," "*Adjudication*."
- Registrar to act as trustee until a trustee is appointed by the creditors, s. 17; and as such trustee to act when requisite under the direction of the court, *ib.*; and not without such directions to take possession of property, *ib.*; the certificate of his appointment conclusive evidence, s. 18; G. R. 46.
- Registrars: the property of the bankrupt to vest in them when acting as trustee, s. 83, par. 6.
- Registrar acting as trustee, may sell perishable property, G. R. 103.
- Registrar, if there be no trustee during the continuance of a bankruptcy, to act as such, s. 83, par. 3.
- Registrar, as trustee, need not give security, G. R. 128.
- Registrar: audit of accounts as trustee, prescribed, *ib.*
- Registrar, on receiving affidavit as to disputed debt under s. 9, to appoint a day for the hearing before the judge, and to give notice of such appointment to creditor and debtor, G. R. 36.

- Registrar to summon first meeting, and advertise it in the *Gazette* and a local paper, G. R. 89; when a quorum is not present at an adjourned meeting, to report the fact to the court, *ib.*; to appoint a day for the public examination of the bankrupt, G. R. 96.
- Registrar to preside over first meetings of creditors, s. 16, par. 1.
- Registrar may, acting as trustee at first meeting, disallow proofs of debt, G. R. 70.
- Registrar, when presiding at meetings of creditors, to cause minutes to be kept, and entered in a book of all resolutions and proceedings at the meeting; such minutes, when signed by him, to be evidence in all legal proceedings, s. 106.
- Registrar, under direction of the court, may adjourn the first meeting, s. 84.
- Registrar, on appointment of trustee, to give over to him all the proofs of debts received, after filing a list of them, G. R. 71.
- Registrar, on bankruptcy of sole trustee, to call a meeting of creditors for the appointment of a successor, s. 83, par. 5.
- Registrar, on release of trustee, to act as trustee, and get in outstanding property, G. R. 125.
- Registrar to transmit to the trustee sealed copies of any order of the court, directing a special meeting, fourteen days at least before the day appointed, G. O. 11.
- Registrar to preside at general meetings of creditors under s. 20, when so directed by the court, s. 20.
- Registrar: his duty in relation to application by bankrupt for an order of discharge after payment of 10s. in the pound, prescribed, G. R. 173.
- Registrar to transmit the file of proceedings to the registrar of appeals, G. R. 149.
- Registrar of appeals to attend on trials by jury, G. R. 200.
- Registrar to examine proceedings of creditors at meeting of creditors under liquidation by arrangement, and if satisfied as to their regularity to register them, s. 125, par. 4.
- Registrar: his certificate of appointment of trustee of same effect with certificate of the like appointment in bankruptcy, *ib.* 6.
- Registrar in liquidation, to give certificate of discharge of debtor, to operate with the same effect as an order of discharge in bankruptcy, s. 125, par. 10; and see "*Liquidation.*"
- Registrar in composition, if he is satisfied with the proceedings, to register them, such registration alone giving validity to the resolution, s. 126; and see "*Liquidation.*"
- Relation back commences at time of completion, 1. of the act of bankruptcy on which adjudication was made; or 2. of the first of several acts of bankruptcy proved, committed within twelve months preceding the adjudication; or 3. of an act of bankruptcy committed prior to such twelve months, if there then existed a sufficient creditor's debt (single or aggregate), and that this debt still remains due, s. 11.
- Release of officers of the old London court transferred to the new London court, provisions for, s. 129.
- Release of trustee, procedure to obtain, s. 51; G. R. 122; it may be opposed by creditors, and may be granted, or withheld, or suspended by the court, s. 51.

- Release of trustee, when granted, discharges him from all liability in respect of any act or default in the administration of the bankruptcy, but the order may be revoked on proof that it was obtained by fraud, s. 53.
- Remaining out of England, an act of bankruptcy, s. 6.
- Remuneration to bankrupt, for services in the bankruptcy, may be given with the sanction of the creditors, s. 38.
- Remuneration, if any, of persons in relation to stamps, to be directed by the Treasury, s. 68.
- Rent due by bankrupt may be distrained for by the landlord after the commencement of the bankruptcy, but only one year's rent, the overplus to be a debt provable under the bankruptcy, s. 34. Provision as to rent falling due at other period than that of the adjudication, s. 35.
- Repeal of acts, under the Insolvent Debtors' and Bankruptcy Repeal Act, not to affect things done under any act repealed, or proceedings pending, or rights acquired, or penalties incurred thereunder, B. R. s. 20. Text of acts repealed, in schedule.
- Rescinding of orders. *See* "Court."
- Resolutions at meetings of creditors: ordinary, to be decided by a majority in value; special, by a majority in number and three-fourths in value, s. 16, par. 7, 8.
- Returns to parliament by the registrar and other officers, directed, s. 115.
- Review of orders. *See* "Court."
- Rules of court may be from time to time, made, revoked, and altered, by the Lord Chancellor, with the advice of the Chief Judge, for the effectual execution of the act, s. 78, and to regulate:
1. Generally, the practice and procedure of bankruptcy petitions and the proceedings thereon.
 2. The service of bankruptcy petitions, including substituted service.
 3. The valuation of debts.
 4. The valuation of securities.
 5. The giving or withholding interest or discount on or in respect of debts or dividends.
 6. The funds out of which costs are to be paid, the order of their payment, and the amount and taxation.
 7. Any other matter or thing, whether similar or not to the above, as to which rules shall be deemed expedient.
- Rules of court may prescribe what statement of affairs, &c. may be required from the bankrupt, s. 19.
- Rules of court may be made for regulating proceedings in liquidation, s. 125, par. 11.
- Rules of Court to be deemed within the powers conferred by the act, and to be of the same force as if they were enacted in the body of the act, s. 78.
- Rules of court to be laid before parliament, *ib.*
- Rules of court are to be judicially noticed, *ib.*
- Rules of court, until they have been made, and so far as, when made, they do not extend the practice, principles, and rules in bankruptcy procedure, prior to the act, to be observed, s. 78.

S.

- SALARIES** of registrars, and of clerks, ushers, and other subordinate persons, appointed by the Chief Judge, to be fixed by him with the sanction of the Treasury, s. 63.
- Salary**, not exceeding four months as to time, or 50% in amount, to be paid in priority to other debts, s. 32.
- Salary** of bankrupt, other than official, an appropriation of, or of a portion of, for the benefit of the creditors, may be directed by the court, s. 90.
- Scotland** exempted from the operation of the act, except where otherwise provided, s. 2.
- Scotland** exempted from the operation of the Debtors' Act, D. A., s. 2.
- Scotland**, courts of bankruptcy in, available for enforcement of orders by English courts of bankruptcy, s. 73, and *è converso*, *ib.*; and of warrant, s. 76.
- Scriveners**, within the act as traders, Schedule 1.
- Seal** to be provided for every court exercising jurisdiction under the act, and judicial notice to be taken of such seal, s. 169.
- Search-warrant** for property of bankrupt concealed elsewhere than in his own house, may be granted by the court, s. 99; to be executed in manner prescribed, or in like manner as search-warrants for property supposed to be stolen, s. 76.
- Secured creditor**: definition of the term, s. 16, par. 5.
- Secured creditor** only to prove at first meeting in respect of balances after deducting value of the security, unless he give up his security, s. 16, par. 4.
- Secured creditor**, on giving up security, may prove for the whole debt; or, after realizing or giving credit for the security, may prove for the balance, but not complying with these conditions, excluded from dividend, s. 40.
- Secured creditor**, procedure to determine the balance of his debt, for the purpose of voting, prescribed, G. R. 99, 100; and for the purpose of dividend, s. 111.
- Secured creditor**, notwithstanding adjudication of bankruptcy against his debtor, continued in the power to realize or otherwise deal with his security, s. 12.
- Secured creditors**, in calculating majorities in composition, to be calculated by value, s. 126.
- Securities held by creditor**, definition of the term, s. 16, par. 5, as to valuation and surrender of:
1. On bankruptcy petition, s. 6.
 2. At first meeting, s. 16, par. 4.
- Securities held by petitioning creditor**, provisions as to the surrender of, immediate or deferred, s. 6.
- Security by trustee**, as to, s. 14, par. 2.
- Security** required to be given to any person before the court, to be in the form of a penal bond, with securities, G. R. 158, 159.
- Security**: in lieu of security, the person may deposit with the registrar the amount in dispute, and the probable costs of trial, G. R. 160. Notice of such deposit to be given to the other party, G. R. 165.
- Security**: the security may be that of a guarantee association, G. R. 161.

- Security : notice of sureties, to be given to the opposite party, and to the registrar, who shall thereupon appoint a day on which the bond shall be executed, and give notice thereof to both parties, G. R. 162.
- Security : sureties to make affidavit of sufficiency, if the other party shall so desire, G. R. 163.
- Security bond to be executed and attested before a registrar, or a justice of the peace, or an attorney, G. R. 164.
- Security given by a debtor under the Debtors' Act, may be the amount in question, deposited in court, or a bond with two or more sureties, or such other security as the plaintiff may accept. The master of the court to decide on disputed sufficiency, and to award costs of reference ; if sufficiency is not disputed within four days, the security to be deemed sufficient, *Reg. Gen.* 7 ; the deposit, security, and all proceedings therein, to be subject to the control and order of the court, *ib.* 8.
- Security under Debtors' Act : where the debtor deposits money, the officer of the court shall give a receipt for it ; where he gives a bond or other security, the receipt to be a certificate signed or attested by the plaintiff's attorney ; upon delivery of such receipt or certificate to the sheriff, the debtor to be discharged, *Reg. Gen.* 10.
- Seizure and sale of goods under execution, an act of bankruptcy, when committed by a trader, s. 6.
- Seizure and sale of goods of bankrupt, under execution or attachment, before adjudication, in good faith and without notice of an act of bankruptcy, valid, s. 95, par. 3.
- Seizure of land of bankrupt, by execution or attachment, before adjudication, in good faith and without notice of an act of bankruptcy, valid, s. 95.
- Seizure of bankrupt's property, under warrant, may be made whether in the bankrupt's own premises or elsewhere, and for such purposes the premises may be broken open, s. 99.
- Seizure of bankrupt's goods, &c. See "*Arrest.*"
- Seizure and sale of goods of trader, taken in execution, the produce of to be retained by the sheriff or high bailiff for fourteen days ; if within that period there is no notice of bankruptcy, or a notice not followed by adjudication, the produce to be dealt with as though there had been no notice, s. 87 ; if there be adjudication, the produce, after deducting expenses, vests in the trustee, *ib.*
- Separate creditor may prove under adjudication act his debts, jointly with any other person, and the separate estate shall be applied, in the first place, in satisfaction of separate creditors, G. R. 76.
- Sequestration against the property of a debtor, issuable by any court of equity, in like manner as if the debtor had been arrested, D. A., s. 8.
- Sequestration, preferential, of ecclesiastical benefice held by bankrupt, to be granted on application of trustee, subject to such stipend thereon to the bankrupt while filling the benefice, as the bishop of the diocese shall direct, s. 88.
- Service of summonses under Debtors' Act, must be personal, unless the judge shall otherwise direct, *Reg. Gen.* 2.
- Service of debtor's summons, or bankruptcy petition, must be proved by affidavit, G. R. 63 ; of petition on debtor abroad, as to, G. R. 66 ; on debtor-trader departed from dwelling-house, G. R. 65.
- Service of proceedings. See "*Proceedings.*"

- Set-off, in the case of mutual credits, debts, or other dealings, between the bankrupt and any creditor, allowable when the creditor had not, at the time he gave the credit, &c., notice of an act of bankruptcy, s. 39.
- Settlement of property, made within two years before bankruptcy by trader, invalid as against trustee of his bankruptcy, if not made,
1. Before and in consideration of marriage.
 2. In favour of a purchaser or incumbrancer in good faith, and for valuable consideration.
 3. In favour of the wife or children of settlor of property accrued to him after marriage in right of his wife, s. 91.
- Settlement of property: any such settlement made within ten years of the bankruptcy to be invalid, unless the parties interested can prove that the settlor was at the time solvent, apart from the property settled, *ib.*
- Settlement of property: any covenant or contract, by trader, in consideration of marriage, for future settlement upon wife or children, in which he had not at the time any estate or interest, or not being property in right of his wife, void as against the trustee, *ib.*
- Settlement of property: the term "settlement" to include any conveyance or transfer of property, *ib.*
- Settlement of his affairs by bankrupt, otherwise than in bankruptcy, may be permitted by the trustee with the sanction of the creditors, and the allowance of the court, the settlement being thereafter enforceable by the court and binding on the creditors, s. 28.
- Sharebrokers, within the act as traders, Schedule 1.
- Shares in ships, &c., portion of the bankrupt's property, vests in trustee, s. 22; where any shares in companies, &c. are unmarketable, the trustee may (subject to the limitation of time prescribed by s. 24) disclaim them, and they shall, subject to application to the court by the person interested, *ib.*, and to proof of amount of injury, thereupon be deemed to have been forfeited from order of adjudication, s. 23.
- Sheep salesmen, within the act as traders, Schedule 1.
- Sheriff, his position with respect to proceeds of seizure and sale of goods of a trader, s. 87; and see "*Seizure and Sale.*"
- Ship insurers, within the act as traders, Schedule 1.
- Ship-owners, within the act as traders, Schedule 1.
- Shorthand-writer. See "*Evidence.*"
- Signature of a judge or registrar to be judicially noticed in all legal proceedings, s. 109.
- Sittings in chambers may extend to any matter except the public examination of the bankrupt, or application for order of discharge, unless all the contending parties shall require any such matter to be heard in open court, G. R. 5, 6.
- Sittings of the court. See "*Chief Judge.*"
- Small debts, due under order or judgment of a court, excepted from the operation of the act, with certain specified limitations:
1. The imprisonment not to exceed six weeks, or until (within that time) payment is made.
 2. Where the jurisdiction is exercised by any court other than the superior courts of law and equity, it must be exercised only by a judge or his deputy, and by order in open court, and showing on

Small debts—*continued*.

its face the ground on which it is issued ; it must be exercised only in respect of a debt not exceeding 50*l.*, exclusive of costs ; and, as respects a judgment of a county court, only by a county court judge or his deputy.

3. The court must be satisfied that the default is wilful, in proof of which witnesses may be summoned.
4. The payment may be ordered to be made by instalments, D. A., s. 5, and see "*Imprisonment*."

Solicitors. See "*Attorneys*."

Solicitor, being himself trustee, may contract to be paid an inclusive sum, by per-centage or otherwise, for his services, professional and otherwise, s. 29.

Solicitors : none to be employed by the trustee, without the leave of the inspectors, s. 29.

Solicitors now acting in the court in London as official solicitors, in cases where no creditors' assignee is appointed, to act for any registrar, in his capacity of trustee, when so required, G. R. 220.

Special bail : in any case in which the defendant would not be liable to imprisonment under the act, to be deemed to condition that the defendant shall not quit England without leave of the court, D. A., s. 7.

Stamp duties, exemption from, of proceedings in bankruptcy or relating to a bankrupt's estate, s. 113, and see "*Conveyances*."

Stamps on documents to be forthwith effaced by the officer receiving them, G. R. 206.

Stay of proceedings, under debtor's summons, s. 7 ; under creditor's petition, s. 9 ; such stay of proceedings not to preclude adjudication on the petition of another creditor, if the court shall see fit, *ib.*

Statement of account. See "*Declaration of Proof*."

Statement of affairs, to be made out for creditors by the bankrupt, s. 19.

Stock, portion of the bankrupt's property, vests in trustee, s. 22.

Stockbrokers and stockjobbers, within the act as traders, Schedule 1.

Subordinate officers. See "*Clerks*."

Subpœna, witnesses to be summoned by, G. R. 166.

Subsequent petition against members of a firm of which one member is already bankrupt, to be consolidated with the first petition, s. 102.

Substituted service, provisions for, to be made by rules of court, s. 78 ; G. R. 61.

Suffering one's self to be outlawed, an act of Bankruptcy, s. 6.

Suits, actions, executions, or other legal process against a debtor may be restrained by the court, after presentation of bankruptcy petition, s. 13 ; or, after adjudication, may proceed as the court shall think fit, *ib.*, and see "*Actions*."

Summons of debtor under Debtors' Act, s. 5 ; to specify date, &c., of judgment, order, amount due, &c., *Reg. Gen.* 1.

Summons of debtor : the service must be personal, unless the judge shall otherwise direct, *Reg. Gen.* 2.

Summons of debtor : proof of the means of the debtor to be made, when practicable, by affidavit, but either before or at the hearing the judge may order a *viva voce* examination of the debtor or other persons, and the production of necessary documents ; disobedience to such order to be punished as a contempt of court, *Reg. Gen.* 3.

- Sums payable by attorney, as penal costs, or under order of a court, excepted from the operation of the act, D. A., s. 4.
- Sums payable by trustee under order of a court of equity, excepted from the operation of the act, D. A., s. 4.
- Sums recoverable before justice of peace excepted from the operation of the act, D. A. s. 4.
- Superannuation allowance may be reduced or suspended if the recipient accept public employment of greater value, s. 135.
- Sureties for trustee need not justify, G. R. 107.
- Surplus estate, after payment of creditors and costs of bankruptcy, and interest on debts, to be given to the bankrupt, s. 45; G. R. 137.
- Surrender and admittance: property passing by, part of the estate, may pass direct to appointee of trustee, s. 22.

T.

- TAVERN keeper, within the act as a trader. Schedule 1.
- Things in action, part of the estate, shall be recoverable by the trustee by action, &c., in his official name, and shall be deemed to have been, for such purpose, duly assigned to him in such capacity, s. 22.
- Things in action, other than trade debts, not goods and chattels within the order and disposition section, s. 15, par 5.
- Time limited for any proceedings under the act, computation of, s. 114.
- Tools of trade, and necessary wearing apparel, &c., of bankrupt and his family, to the value of 20*l.*, not divisible among the creditors, s. 15, par. 2.
- Town councillors, on becoming bankrupts or arranging debtors, disqualified to hold office, D. A., s. 21.
- "Trader," definition of the term, s. 4; and Schedule 1.
- Trader, distinction as to operation of act upon :
 - As to acts of bankruptcy, s. 6, pars. 3, 5, 6; G. R. 65.
 - As to goods in order and disposition, s. 15.
 - As to seizure and sale of his goods under execution, s. 87.
 - In relation to voluntary settlements, s. 91.
- Transfer of proceedings :
 1. Where they are instituted in more courts than one, may be made by the London court to itself or to a local court, s. 80, par. 3.
 2. Under special resolution of creditors, or certificate of judge of local court, may be made to London or to some other local court, *ib.* par. 5; G. R. 82, 83.
 3. Generally, may be made from one court to another, *ib.* par 6.
- Transfer and receipt of proceedings by second court, sufficient authority for that court to continue the proceedings, without further order transferring than is contained in the proceedings, G. R. 84.
- Transfer of property of bankruptcy, in good faith, protected, s. 95.
- Treasurer, or other officer, or banker, attorney, or agent, holding securities or moneys of bankrupt, which he is not entitled by law to retain, to pay the same over to the trustee, s. 93.
- Treasury to sanction scale of fees, for business under the act, and to direct whether these shall be paid by stamps or otherwise, and to regulate collection, &c., of, and to determine what remuneration, if any, shall be paid, in respect of the same, s. 68.

Trial by jury of question of fact, manner of, prescribed, G. R. 190—203.

Trial by jury : scale of fees in relation thereto, G. R. 197.

Trial of disputed debt in debtor summons, when to be had, s. 7.

Trust property held by bankrupt, not divisible among his creditors, s. 15, par. 1.

Trustee Act, 1850 : a trustee within this act, on becoming bankrupt, removable from his trust, s. 117.

Trustee : the term to include the registrar, when filling the office of trustee, s. 17.

Trustee : the certificate of his appointment conclusive evidence of the appointment and its date, s. 18.

Trustee : the term may include several persons appointed by the creditors, but all shall be joint tenants of the property as trustee, s. 83, par. 1.

Trustee may be appointed either by the creditors at the first meeting, or by the inspectors, s. 14 :

1. He need not be a creditor, *ib.*

2. He may be remunerated or not, as the creditors determine, *ib.*

3. He must give security, *ib.* par. 2.

Trustee, appointment of, to be reported to the court, and thereupon the court, if satisfied as to security, to give certificate, s. 18, G. R. 105.

Trustee : notice of his appointment to be gazetted, and advertised in local papers, G. R. 111.

Trustee : if none appointed at first meeting, or adjourned first meeting, the court may annul the adjudication, or direct the registrar to act as trustee, s. 84.

Trustee : upon a vacancy in the office, not filled up, the court may direct the registrar to act, or may annul the adjudication, s. 84.

Trustee : vacancy in the office of, to be filled up by the creditors, in general meeting, summoned by a continuing trustee, or if there be none such, by the registrar, s. 83, par. 2.

Trustee : if there be no trustee, the registrar to act as such, s. 83, par. 3.

Trustee to have regard in the administration of the property and its distribution to the direction of the creditors at any general meeting, or subject thereto, to the directions of the inspectors, s. 20.

Trustee to have his accounts audited once at least in every three months by the inspectors, s. 20.

Trustee to call special meetings of the inspectors, or general meetings of the creditors, or make application to the court, when requisite, s. 20.

Trustee subject to the direction, 1. of the inspectors ; 2. of the creditors in general meeting ; 3. of the court ; he may exercise his own discretion in the administration of the estate, s. 20.

Trustee : his liability to an appeal to the court by any person aggrieved by his acts, s. 20.

Trustee : his position and powers as to the acquisition and retention of property to be in all respects as if he were a receiver in Chancery, s. 20.

Trustee : his title to transfer of stock, shares, &c., portion of the estate, s. 22.

Trustee : his position with regard to copyhold or customary property, &c., portion of the estate, s. 22.

Trustee : his position as to things in action, and any proceeding relating thereto, s. 22.

- Trustee to take possession of all deeds, books, and documents of the bankrupt, and of all other property capable of manual delivery, s. 22.
- Trustee to keep books containing entries of all proceedings at meetings, and of such other matters as rules of court shall direct, such books to be open to inspection, by creditors, s. 22.
- Trustee to summon creditors to attend general meeting ordered by the court, G. R. 95.
- Trustee may apply to the court to summon the bankrupt, or his wife, or other persons for examination, s. 96.
- Trustee : his rights as to avoidance of voluntary settlements, s. 91 ; and see "*Settlement.*"
- Trustee : his rights as against fraudulent preferences, s. 92.
- Trustee : his rights as against persons holding securities or moneys belonging to the bankrupt, s. 92.
- Trustee to receive and decide upon proofs of debt, and to administer the oath to the creditor, s. 25, par. 1.
- Trustee to carry on the business of the bankrupt so far as may be necessary, s. 25, par. 2.
- Trustee to bring or defend actions, &c., relating to the estate, s. 25, par. 3.
- Trustee to deal with estates tail, part of the estate, in like manner as the bankrupt might have done, s. 25, par. 4.
- Trustee to exercise all powers vested in him by the act, and to execute all powers of attorney, deeds, &c., requisite for the exercise of those powers, s. 25, par. 5.
- Trustee to sell or dispose of, in such manner as he shall think fit, the estate, including good-will and book debts, s. 25, par. 6, and to give effectual receipts for all moneys received by him, *ib.*, par. 7.
- Trustee to prove debts and receive dividends under any bankruptcy against which the estate may be a creditor, s. 25, par. 8.
- Trustee may appoint the bankrupt to manage the property, or carry on the business, for the benefit of the creditors, and otherwise to aid the administration, on such terms as the creditors direct, s. 26.
- Trustee may, with the sanction of the inspectors :
1. Mortgage or pledge any part of the estate, to enable payment of debts.
 2. Refer disputes to arbitration.
 - 3, 4. Compromise debts, or claims.
 5. Distribute otherwise than by sale, property which cannot advantageously be realised by sale, s. 27.
- Trustee may, with sanction of special resolution of creditors, and with the approval of the court, accept a composition offered by the bankrupt, or assent to a scheme of settlement of his affairs, with or without an annulling of the bankruptcy, s. 28.
- Trustee may not employ a solicitor or other agent without the consent of the inspectors, s. 29 ; G. R. 116.
- Trustee : where trustee is himself a solicitor he may contract to be paid an inclusive sum, by way of percentage* or otherwise, for his services as trustee, including professional services, s. 29.
- Trustee to pay all sums received by him into such bank as the majority of the creditors, in general meeting, shall appoint, or, failing such appointment, into the Bank of England, s. 30.

- Trustee, if he shall keep in his hands at any time any sum exceeding 50*l.* for more than ten days, he shall pay interest at the rate of 20 per cent. on such excess, and be liable to dismissal by the court, with costs, and without remuneration, s. 30.
- Trustee to assess in certain cases the value of contingent debts or liabilities, subject to an appeal to the court, s. 31.
- Trustee may, with the sanction of the creditors, make allowances to bankrupt, or remunerate him for services in the bankruptcy, s. 38.
- Trustee to transmit periodically to the comptroller a statement of the proceedings in the bankruptcy under pain of contempt of court, s. 56 ; such statements to be examined by the comptroller, who may call the trustee to account for misfeasance, neglect, or omission, and charge him with any loss thence resulting, s. 57.
- Trustee may hold property, make contracts, enter into engagements for himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office, s. 83, par. 7.
- Trustee : certificate of his appointment, an effectual conveyance or assignment of property, and may be registered, enrolled, and recorded accordingly, s. 83, par. 8.
- Trustee : the property of the bankrupt to vest in him without conveyance, assignment, or transfer, s. 83, par. 6.
- Trustee : produce of sale of goods of trader, seized under execution, after payment of expenses, vests in him, s. 87.
- Trustee, with the authority of the court and the sanction of the creditors, may bring actions or suits in his own name and in that of any partner of the bankrupt, upon notices to the partner, and unless the partner shall show cause to the court to the contrary, s. 105.
- Trustee, his costs, as plaintiff in any action or suit, not allowed until taxed in manner prescribed, G. R. 114.
- Trustee : procedure on his applying to the court for directions under s. 20, prescribed, G. R. 112.
- Trustee, on vacancy in the office of inspector, to convene a meeting of creditors to fill up such vacancy, s. 83, par. 13.
- Trustee may at any time disclaim when part of the estate is :
1. Land burdened with onerous covenants.
 2. Unmarketable shares.
 3. Unprofitable contracts.
 4. Or other onerous property, but subject to an appeal to the court, by person interested, for possession of the disclaimed property, and to proof of debt, on the estate, by such person, to the amount of the injury he has sustained by the disclaimer, *ib.* ; and subject to making the disclaimer within twenty-eight days after an application to that effect from the person interested in the property, or within such further time as the court will grant, s. 24.
- Trustee to report close of bankruptcy to the court, when the whole property, or as much of it as can be realised without needlessly protracting the bankruptcy, has been realised, or composition or arrangement has been completed, s. 47.
- Trustee, where no inspectors are appointed, to act on his own discretion, s. 125, par. 13.
- Trustee : no act *bond fide* done by him to be vitiated by reason of any defect or irregularity in his appointment, s. 83, par. 15.

- Trustee not responsible for sales and dispositions of property, payment duly made, &c., prior to an order annulling the bankruptcy, s. 81.
- Trustee liable to imprisonment in default of payment of sums under order of a court of equity, D. A., s. 4.
- Trustee, if an auctioneer, may not act in the sale of the property, unless with the sanction of the inspectors, G. R. 119.
- Trustee may report to the court when, in his opinion, a bankrupt or debtor has been guilty of any offence under the act, and may, if prosecution be directed, act as prosecutor, D. A., s. 16.
- Trustee, upon close of bankruptcy, to apply for an order of release, s. 51; G. R. 122.
- Trustee, at meeting of creditors for such purpose, to give an account of the manner in which he has conducted the bankruptcy, and of the position of the estate, s. 51; G. R. 123.
- Trustee, if his release is withheld by the court, may be charged with the consequences of any act or default contrary to his duty, s. 52.
- Trustee, on close of bankruptcy, to pay over unclaimed dividends and other moneys under his control, s. 52.
- Trustee: his release discharges him from liability in respect of any act or default in the administration of the bankruptcy; but the release may be revoked upon proof that it was obtained by fraud, s. 53.
- Trustee to have his statement of accounts audited quarterly by the inspectors, and to forward it, when audited, to the comptroller, under pain of contempt of court, s. 55.
- Trustee, upon his release, or on the close of the bankruptcy, to deliver a list of outstanding property, and all books, &c., to the registrar, G. R. 125, 249.
- Trustee: his resignation must be accepted by a meeting of creditors; procedure to obtain such sanction, prescribed, G. R. 122.
- Trustee, as to removal of:
1. By the court, upon cause shown.
 2. By the creditors, by special resolution, s. 83, par. 4; and G. R. 120.
- Trustee to keep a record book and an estate book open to inspection by the inspectors, the creditors, or their agents, G. R. 242, 243, 244; and to be submitted on audit to the inspectors, G. R. 245, 246; copy of the estate book to be transmitted to the comptroller with a copy of the statement of affairs, and the comptroller to report thereon, *ib.* 247, 248.
- Trustee to forward annual returns of the bankruptcy to the comptroller, and may have his conduct, &c., investigated by the comptroller, G. R. 250, 251.
- Trustee: if he become bankrupt, to cease to be trustee, s. 83, par. 5.
- Trustee, within the Trustee Act, 1850, on becoming bankrupt, removable from his trust, s. 117.

U.

- UNCLAIMED dividends, after close of bankruptcy, to be applied for in manner prescribed, s. 52.
- Unclaimed dividends, and other estate under the control of trustee at the close of the bankruptcy, to be paid over in manner to be directed

- by the rules of court to be made with the sanction of the Treasury, s. 52.
- Unclaimed dividends for five years to vest in the Crown, subject to claim thereafter on the part of the creditor, s. 116.
- Undischarged bankrupt, status of, s. 54.
- Unliquidated damages, demands in the nature of, arising otherwise than by reason of a contract or promise, not provable in bankruptcy, s. 31.
- Unliquidated debt, considered as within the term "liability," s. 31.
- Unliquidated debt not available as petitioning creditor's debt, s. 6; nor as debt enabling creditor to vote at first meeting, s. 16, par. 3.
- Unliquidated debts may be compromised by the trustee with the sanction of the inspectors, s. 25.

V.

VACATIONS. See "*Chief Judge*."

Varying of orders. See "*Court*."

Venditioni exponas, writ of, issuable in return to former writ that goods have been seized but not sold, G. R. 232.

Victuallers, within the act as traders, Schedule 1.

W.

WAGES, not exceeding four months, as to time, or 50*l.* in amount, for clerks, or two months' wages for labourers, to be paid in priority to other debts, s. 32.

Warehousemen, within the act as traders, Schedule 1.

Warrants of a court of bankruptcy in England enforceable in Scotland, Ireland, the Isle of Man, the Channel Islands, and elsewhere in her Majesty's dominions, s. 76.

Warrants issued under the acts to be addressed to an officer of the London Court, or to a high bailiff of a county court, as the court may direct, G. R. 176.

Warrant of attorney to confess judgment, to be valid must be executed in the presence of an attorney on behalf of the person giving it, and be attested by him, D. A., ss. 24, 25; any defeasance or condition must appear on the document, and it must be duly filed, s. 26.

Wearing apparel, &c., of the bankrupt and his family, to the value of 20*l.*, not divisible among the creditors, s. 15, par. 2.

Wharfingers, within the act as traders, Schedule 1.

Winding up of the business of the old London Court, provisions for, directed, s. 129.

Winding up of the business of the late Insolvent Debtors' Court, provided I. D. A., s. 14; all insolvencies to be closed within a prescribed period, *ib.* s. 15.

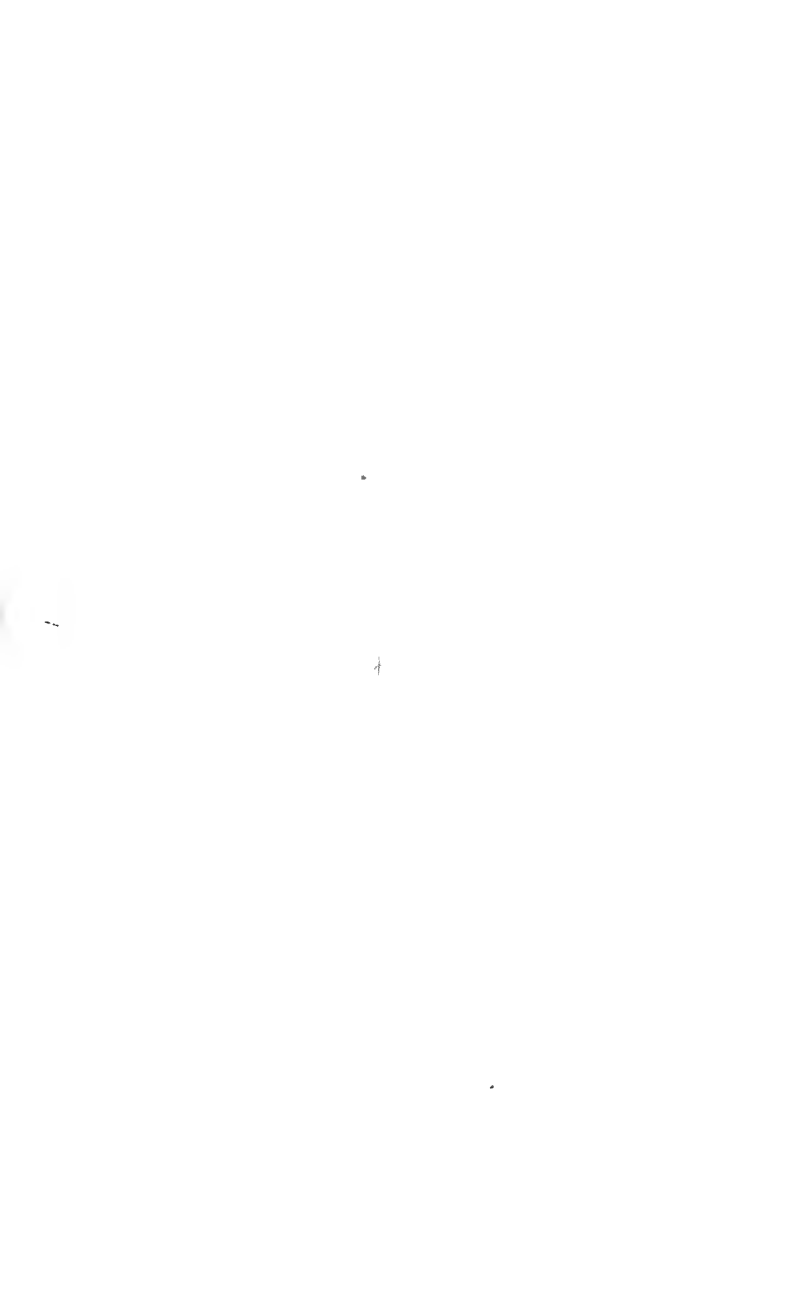
Witness—subpœna for the attendance of, to be issued at the instance of trustee, creditor, debtor, or person affected by any order, and may be issued in blank, G. R. 166.

Witness—subpœna must have the name of one witness only inserted, *ib.*

Witness—subpœna: service must be personal and within reasonable time of the required attendance, G. R. 167; the service must be proved by affidavit, *ib.* 168.

- Witnesses, examination of, on summons under Debtors' Act, may be directed, *Reg. Gen.* 3.
- Witnesses, the number of as to taxation, to be regulated by the court, G. R. 169.
- Witnesses: the allowance to, in no case to exceed the highest rate in the scale in the schedule, G. R. 169.
- Witnesses: their costs may be allowed whether they have been examined or not, G. R. 170.
- Witnesses summoned for examination by the court, upon refusal, after tender of reasonable sum, to attend, or to produce documents, having no lawful impediment allowed by the court at the sitting, may be apprehended and brought up under warrant, s. 96.
- Workman for hire, not within the act as a trader, Schedule 1.
- Workmanship or conversion of goods or commodities, a trading within the act. Schedule 1.
- Writ of execution to be in the form given in the schedule, or as near thereto as may be, G. R. 229; to be executed as like writs out of the inferior courts are executed, and the like fees to be paid in respect thereof, *ib.* ; must be duly tested, *ib.* 230 ; and endorsed with actual amount to be levied, and name, &c., of debtor, and name, &c., of solicitor issuing the writ, *ib.* 231.
- Writ of execution to enforce orders for payment of money and costs, to be sealed, and to be issued by the chief registrar, G. O. 17; a præcipe thereof to be filed, *ib.* 18 ; and see Schedule.
- Writ of execution to be returned to the court and filed with the chief registrar, and the particulars as to execution, &c., entered in the præcipe book, G. R. 233; on satisfaction, in whole or part, the debtor may cause such satisfaction to be entered on the order for payment, *ib.* 234, 235 ; writs and præcipes may be amended by the court, *ib.* 236.

THE END.



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